

**THE VILLAGE OF HICKORY POINTE
AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions (“Declaration”) is made this ___ day of _____, 2021, by the Village of Hickory Pointe Homeowners Association, whose address is c/o 4045 Stone School Road, Ann Arbor, MI 48108 (hereinafter sometimes referred to as “Association”).

RECITALS

WHEREAS, Hickory Pointe Associates, L.L.C., a Delaware limited liability company (“Developer”), was the original Developer/Grantor of the following property located in the Township of Pittsfield, Washtenaw County, Michigan:

Lots 1 to 65, inclusive, Hickory Pointe Subdivision No. 1, as recorded in Liber 31 of Plats, Pages 38 to 44, Washtenaw County Records (hereinafter referred to as “Subdivision No. 1”); and

WHEREAS, the Developer created the original Declaration of Covenants, Conditions and Restrictions (“Original Declaration”), dated February 13, 1998, and which was recorded on February 18, 1998, in Liber 03586, Pages 788 through 815, Washtenaw County Records, for the benefit of all Lot Owners in Subdivision No. 1; and

WHEREAS, the Declarant reserved to itself the right in the Original Declaration to amend said Declaration to subject additional subdivisions, lots and common areas to the Original Declaration, and to make the Owners of the Lots in such Subdivisions members of the Association; and

WHEREAS, the Declarant deemed it desirable for the efficient preservation of the values and amenities in the Subdivisions to create a legal entity, the Association, to which it assigned the powers and duties of maintaining and administering the Subdivisions’ Common Areas, and of collecting and disbursing assessments

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and charges created in the Original Declaration, and of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners; and

WHEREAS, the Developer recorded a First Amendment to the Original Declaration dated May 15, 1998, and recorded on May 18, 1998, in Liber 3660, Pages 988 through 989, Washtenaw County Records;

WHEREAS, the Developer recorded a Second Amendment to the Original Declaration on May 26, 1998, at Liber 3667, Pages 445 through 447, Washtenaw County Records;

WHEREAS, the Developer recorded a Third Amendment to the Original Declaration on August 24, 1999, at Liber 3895, Pages 37 through 39, Washtenaw County Records;

WHEREAS, the Developer recorded a Fourth Amendment to the Original Declaration on October 20, 2000, at Liber 3974, Pages 887 through 888, Washtenaw County Records, which added the following property to the land that is subject to the Declaration:

Lots 66 to 126, inclusive, Hickory Pointe Subdivision No. 2, as recorded in Liber 32 of Plats, Pages 10 to 18, Washtenaw County Records (hereinafter referred to as "Subdivision No. 2"); and

WHEREAS, the Developer recorded a Fifth Amendment to the Original Declaration on May 23, 2001, at Liber 4018, Pages 139 through 140, Washtenaw County Records, which added the following property to the land that is subject to the Declaration:

Lots 127 to 193, inclusive, Hickory Pointe Subdivision No. 3, as recorded in Liber 32 of Plats, Pages 91 to 98, Washtenaw County Records (hereinafter referred to as "Subdivision No. 3"); and

WHEREAS, the Developer recorded a Sixth Amendment to the Original Declaration on May 23, 2001, at Liber 4018, Pages 140 through 141, Washtenaw County Records which added the following property to the land that is subject to the Declaration:

Lots 194 to 258, inclusive, Hickory Pointe Subdivision No. 4, as recorded in Liber 34 of Plats, Pages 76 to 80, Washtenaw County Records (hereinafter referred to as "Subdivision No. 4"); and

WHEREAS, by virtue of the aforesaid amendments, Village of Hickory Pointe Subdivision Phases No. 1, 2, 3 and 4 are all subject to the terms of the Original Declaration, as amended;

WHEREAS, the Association's Board of Directors has proposed certain changes to the terms of the Original Declaration, as amended, which are contained herein and which have been approved by the Owners via a written instrument signed by the Owners of at least seventy-five (75%) percent of all of the Lots in the Subdivisions, in accordance with Article VIII, Section 8.01 of the Original Declaration, and Article VI, Section 6 of the Association Bylaws regarding Amendments;

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WHEREAS, the written instrument signed by the Owners which indicates the approval of the Owners of seventy-five percent of the Lots to the amendments contained in this Declaration are the signed, written consents attached hereto as Exhibits B-1 through B-___, which are hereby incorporated by reference into this Declaration; and

WHEREAS, the Association desires to promote the proper use and appropriate development and improvement of the above-referenced property; protect the owners of the property against improper use of surrounding lots as may depreciate the value of the property; guard against the construction of buildings with improper or unsuitable materials; promote adequate and reasonable development of said property; encourage the construction of attractive improvements thereon and establish appropriate locations thereof to secure and maintain proper setbacks from the streets and adequate free spaces between structures; promote high standards of maintenance and operation of community facilities, open areas and services for the benefit and convenience of all owners of the property and all residents; and, in general, provide for a residential subdivision of the highest quality and character;

NOW THEREFORE, the Association hereby re-declares that the land described in the said "Exhibit A" attached hereto shall be held, sold, conveyed, used and occupied subject to the terms, conditions and restrictions set forth in this Amended and Restated Declaration. The restrictions are for the purpose of protecting the value and enjoyment of the land and shall run with the land and each Lot, and shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the land described in the said "Exhibit A" and their respective heirs, personal representatives, successors and assigns, including the Lot Owners and the Association.

This Amended and Restated Declaration amends and restates in its entirety the Original Declaration, as previously amended.

ARTICLE I

DEFINITIONS

Section 1.1 "Association" shall mean the Village of Hickory Pointe Homeowners Association, a Michigan non-profit corporation, and its successors and assigns.

Section 1.2 "Boulevard Islands" shall mean the Boulevard Islands located at the intersections of Hickory Pointe Boulevard and Munger Road, and Bitternut Boulevard and Hickory Pointe Boulevard, respectively.

Section 1.3 "Common Areas" shall mean those portions of the Subdivisions designated for the common use and enjoyment of the Owners, including all Parks, Boulevard Islands, Greenbelt Areas, Community Pool Facilities, Storm Water Management System and/or Signage, Landscaping, and Irrigation Improvements, or other common areas on the recorded plat(s) for the Subdivisions or as otherwise referenced in this Declaration, and any improvements constructed within the Parks, Boulevard Islands, Signage, Landscaping, and Irrigation Improvements, Greenbelt Areas, Community Pool

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Facilities, Storm Water Management System and/or other common areas for the common use and enjoyment of the Owners, including any recreational amenities.

Section 1.4 “Community Pool Facilities” shall mean such community club house buildings, play and recreational areas and appurtenances, furniture, fixtures and equipment associated therewith and such community swimming pool deck, changing area and associated furniture, fixtures and equipment as Developer may elect, in its sole discretion, to construct and provide for the use and enjoyment of the Owners.

Section 1.5 “Developer” shall mean Hickory Pointe Associates, L.L.C., a Delaware limited liability company, its successors and assigns.

Section 1.6 “Greenbelt Areas” shall mean those certain portions of Lots located (a) along Crane Road and Michigan Avenue subject to a thirty (30) foot wide berm and/or greenbelt and landscape easement in favor of the Developer and Association; and (b) along Munger Road subject to a twenty (20) foot wide greenbelt easement in favor of the Developer and Association, as more particularly set forth on the plats) for the Subdivisions.

Section 1.7 “Lot” shall mean and include Lots 1 through 258 of the Subdivisions, each Lot being designated for single family residential use and for the construction thereon of a single-family dwelling unit.

Section 1.8 “Owner” shall mean and include all persons and entities other than the Developer that acquire ownership of any Lot, including land contract vendees. The term “Owner” shall not include any mortgagee or any other person or entity having an interest in a Lot merely as security for the performance of an obligation, unless and until such mortgagee or other person or entity shall have acquired fee simple title to such Lot by foreclosure or other proceeding or conveyance in lieu of foreclosure. If more than one person or entity owns fee simple title to a Lot, or in the event any Lot is subject to a land contract, then the interests of all such persons or entities, and the interest of the land contract seller and purchaser, collectively shall be that of one Owner. The terms “Owner” and “Member,” wherever used in this Declaration, shall be synonymous, in accordance with Article III, Section 3.02 hereunder.

Section 1.9 “Parks” shall mean all private Parks which are identified in the Plats recorded by the Developer with respect to any of the Subdivisions.

Section 1.10 “Plats” shall mean the plats for any and all of the following: Hickory Pointe Subdivision No. 1, recorded in Liber 31 of Plats, Pages 38 through 44, Washtenaw County Records, Hickory Pointe Subdivision No. 2, recorded in Liber 32 of Plats, Pages 10 through 18, Washtenaw County Records, Hickory Pointe Subdivision No. 3, recorded in Liber 32 of Plats, Pages 91 through 98, Washtenaw County Records, and Village of Hickory Pointe Subdivision No. 4, recorded in Liber 34 of Plats, Pages 76 through 80, Washtenaw County Records.

Section 1.11 “Property” shall mean that certain real property described on the “Exhibit A” attached hereto and previously made a part hereof, as the same may be amended.

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Section 1.12 “Landscaping and Irrigation Improvements” shall mean any entrance way landscaping improvements installed by Developer within any Parks, entrance way/landscaping easement areas within the Subdivision, together with all irrigation systems and related facilities, including meters and back-flow protectors, if any, installed by Developer in any Parks, Common Areas, and/or Landscape easement areas.

Section 1.13 “Stormwater Management System” shall mean those facilities and areas throughout the Subdivision, including storm water drainage pipes, culverts, catch basins and storm water retention ponds, and associated equipment and facilities, to be known as the “Hickory Pointe Drain” which shall be under the supervision of the Hickory Pointe Drainage District and maintained by the Association as part of the Common Areas all in accordance with that certain Agreement to establish the Hickory Pointe Drainage District dated November 4, 1997 between Developer and the Washtenaw County Drain Commissioner (the “Drain District Agreement”) and recorded in Liber 03531, Page 959, Washtenaw County Records.

Section 1.14 “Subdivision” shall mean and include all of the single-family residential subdivisions known as The Village of Hickory Pointe Subdivisions No. 1, 2, 3 and 4 collectively, pursuant to and in accordance with the Plats for said Subdivisions as they are set forth in Section 1.10 herein.

Section 1.15 “Township” shall mean the Charter Township of Pittsfield.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

The Property which is subject to and which shall be held, transferred, sold, conveyed and occupied pursuant to this Declaration is more particularly described on Exhibit “A” attached as the same may be amended.

The Property is and shall be subject to a perpetual and permanent easement in favor of the Washtenaw County Drain Commissioner, the Hickory Pointe Drainage District, (collectively referred to as “grantee”), and grantee's successors, assigns and transferees, in, over, under and through the Property described on the plat recorded in Liber 3895, Page 37, Washtenaw County Records, which easement may not be amended or revoked except with the written approval of grantee, and which contains the following terms and conditions and grants the following rights:

1. The easement shall be for the purposes of developing, establishing, constructing, repairing, maintaining, deepening, cleaning, widening and performing any associated construction activities and grading in connection with any type of drainage facilities or storm drains, in any size, form, shape or capacity;
2. The grantee shall have the right to sell, assign, transfer or convey this easement to any other governmental unit;

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3. No Owner shall build or convey to others any permanent structures on the said easement;
4. No Owner shall build or place on the area covered by the easement any type of structure, fixture or object, or engage in any activity or take any action, or convey any property interest or right, that would in any way either actually or threaten to impair, obstruct, or adversely affect the rights of grantee under the said easement;
5. The grantee and its agents, contractors and designated representatives shall have right of entry on, and to gain access to, the easement property; and
6. All Owners release grantee and its successors, assigns or transferees from any and all claims to damage in any way arising from or incident to the construction and maintenance of a drain or sewer or otherwise rising from or incident to the exercise by grantee of its rights under the said easement, and all owners covenant not to sue grantee for any such damages.

The rights granted to the Washtenaw County Drain Commissioner, the Hickory Pointe Drainage District, and their successors and assigns, under this Article II and Section 7.10 of this Declaration may not, however, be amended without the express written consent of the grantee hereunder. Any purported amendment or modification of the rights granted thereunder shall be void and without legal effect unless agreed to in writing by the grantee, its successors or assigns.

ARTICLE III

HOMEOWNERS ASSOCIATION

Section 3.01 Creation and Purposes. The Association and its Members shall have those rights and obligations which are set forth in this Declaration and in the Articles of Incorporation of the Association. The purposes of the Association shall be to:

- (a) maintain and administer the Common Areas for the common use, safety, enjoyment and benefit of all residents and Owners of Lots and to arrange for the provision of services and facilities of common benefit;
- (b) to exercise and assume the obligations of Developer as set forth in the Drain District Agreement;
- (c) to control the specifications, architecture, design and appearance of all building and improvements of any type to the Property so as to ensure proper use and appropriate development thereof consistent with a harmonious general plan of improvement for the Subdivision; and

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- (d) to perform all of the functions contemplated of the Association as set forth herein and in general to maintain and promote the desired character of the Subdivision.

Section 3.02 Membership. Every Owner of a Lot shall be a Member of the Association. Every Lot Owner shall become a Member commencing on the date on which said Owner is conveyed fee simple title to said Lot or, if applicable, the date on which a land contract purchaser enters into a land contract to purchase said Lot. All membership rights and obligations shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 3.03 Principal Office. The principal office of Association shall be located in such location as the Board of Directors may determine or as the affairs of the Association may require.

Section 3.04 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Subdivision or as convenient to them as is possible and practical.

Section 3.05 Eligibility to Vote. No Owner shall be entitled to vote at any meeting of the Association without presenting a deed or other evidence of ownership of a Lot in the Subdivision to the Association. Land contract vendees shall be recognized as Owners unless the vendor provides the Association with a copy of the land contract expressly reserving voting privileges to the vendor.

The vote of each Owner may be cast only by the individual representative designated by such Owner in the notice required in Section 3.10 of this Article III below or by a proxy given by such individual representative. Any Owner who, as of the record date for the meeting, is in default of a duty to pay any sum to the Association or who is otherwise in violation of the Declaration (after having received notice of and a chance to cure the violation under Section 10.02 (c) hereof) shall not be entitled to vote until such default is cured or payment is made in full to the Association

Section 3.06 Annual Meetings. Annual meetings of the members of the Association shall be held during the month of May, or during such other month and at such date, place and time as the Board of Directors shall direct. Except as may be modified by the Board, Robert's Rules of Order (current edition) shall govern the conduct of all Association and Board proceedings when not in otherwise in conflict with Michigan law, the Articles of Incorporation, or this Declaration.

In the event that the Annual Meeting is not held due to the occurrence of a Catastrophic Event as defined in Section 3.21 below, the Board shall cause the meeting to be held as soon after that date as is convenient, subject to all applicable facts and circumstances.

In no event shall the Annual Meeting be held any later than 15 (fifteen) months from the date of the previous Annual Meeting unless the holding of the Annual Meeting within that time frame is prevented by a Catastrophic Event as defined in Section 3.21 or by governmental authorities for any other reason.

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Section 3.07 Special Meetings. The President may call special meetings of the Association. In addition, it shall be the duty of the President to call a special meeting of the Association, if so directed by resolution of a majority or a quorum of the Board of Directors, or upon a petition signed by Members representing at least thirty-three (33%) percent of the total Lots in the Subdivision. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 3.08 Notice of Meetings. Notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, email or any other method of electronic transmission (as defined by the Nonprofit Corporation Act) to each Member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting, or when required by statute or this Amended and Restated Declaration, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his or her address as it appears on the records of the Association, with postage thereon prepaid. Each Member shall be deemed to have consented to receiving notices electronically (via email or text) if they provide the Association with their email/text address. If a Member or proxy holder is permitted to participate and vote at a meeting by remote communication under this Declaration, the notice shall include a description of the means of remote communication by which a Member or proxy holder may participate.

Section 3.09 Waiver of Notice. Waiver of notice of a meeting of the Voting Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member or alternate shall be deemed waiver by such Member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at the meeting unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

Section 3.10 Voting. The Association shall have one (1) class of voting membership. Each Lot shall be entitled to one (1) vote.

If a Lot is owned by more than one person or entity, then any of the Owners may cast the Lot's vote unless all of the Owners have agreed in writing that only the Owner they have designated via their written agreement may cast the Lot's vote (the Lot's "Voting Representative"). In the event that a Lot's owners designate one Owner as the Voting Representative of the Lot via such a written agreement, that agreement shall control if it is presented at the meeting either physically or by means of electronic transmission, or if it is presented to the Association either physically or by means of electronic transmission before the time for casting a ballot under Section 408 or 409 of the Nonprofit Corporation Act expires.

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If an agreement that governs votes is not presented at the meeting and more than one of a Lot's Owners seeks to vote the Lot's vote, then the majority in interest of the Lot's Owners who are present at the meeting shall determine the manner of voting of the Lot's vote. If there is no majority in interest of the Lot Owners present at the meeting, then the Lot's vote shall be divided among the Owners of the Lot that are present in person in accordance with their ownership interests in the Lot. Where a Lot has been sold pursuant to a land contract, the purchaser under said land contract shall be entitled to the vote for said Lot (except as otherwise provided in Section 1.8).

An invalid ballot, abstention, or the submission of a ballot marked "abstain" with respect to any action does not constitute a vote case on that action. A Member may not revoke a ballot once it has been received by the Association.

Any action which could be authorized at an annual or special meeting of the members, other than the election or removal of directors, maybe authorized without a meeting by the majority vote of the membership by written ballot in accordance with Section 408 of the Nonprofit Corporation Act. The ballot provided to the members shall set forth each proposed action, provide an opportunity for the members to vote for or against each proposed action, and shall specify a time by which the Association must receive a ballot in order to be counted as a vote of the member. The time specified shall be not less than 20 or more than 90 days after the date the Association provides the ballot to the members.

Section 3.11 Majority. As used in this Declaration, the term "majority" shall mean those Owners who represent more than fifty (50%) percent of the Lots in the Subdivision and who are present in person, by proxy or by written ballot at a given meeting of the Members of the Association. Whenever provided specifically elsewhere in this Declaration, a majority may be required to exceed the simple majority set forth in this Section 3.11.

For actions approved by written ballot without a meeting, an action is considered approved if the total number of members voting or the total number of member votes cast in ballots received by the Association by the time specified in the ballots equals or exceeds the quorum required to be present at a meeting to take the action, and the number of favorable votes equals or exceeds the number of votes that would be required to approve the action at a meeting at which the number of votes cast by members present in person, by proxy or by written absentee ballot was the same as the number of votes case by written ballot.

Section 3.12 Quorum. Except as otherwise provided in this Declaration, the presence in person or by proxy or by written ballot of the Members representing at least thirty (30%) percent of the Lots in the Subdivision that are eligible to vote shall constitute a quorum at all meetings of the Association.

The written ballot of any person furnished at or prior to any duly called meeting at which meeting said person is not otherwise present in person or by proxy shall be counted in determining the presence of a quorum with respect to the question upon which the ballot is cast.

Section 3.13 Adjournment of Meetings for Lack of Quorum. If any meeting of the Association cannot be held because a quorum is not present, the Members present at such a meeting in

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person or by proxy shall adjourn the meeting to another date, time and place. If a date, time and place for reconvening the meeting is not fixed by those in attendance at the meeting that is being adjourned, or if for any reason a new date is fixed for reconvening the meeting after adjournment, notices of the date, time and place for reconvening the meeting shall be given to the Members in the manner prescribed for regular meetings and in compliance with the Nonprofit Corporation Act.

At any Annual Meeting that is reconvened due to a lack of quorum that resulted at a previously attempted Annual Meeting, the quorum requirement for the reconvened Annual Meeting shall be reduced to twenty (20%) percent of the total number of Lots in the Subdivision, except for voting on any questions specifically provided in this Declaration to require a greater quorum.

If an Annual Meeting is adjourned for lack of quorum, the Directors who were serving on the Board prior to the date of the Meeting shall continue to serve on the Board until their successors are elected at an Annual Meeting at which quorum is obtained in accordance with this Declaration.

Section 3.14 Conduct of Meetings and Order of Business. Meetings of Members shall be chaired by the most senior officer of the Association present at such meeting. For purposes of this Section, the order of seniority of officers shall be President, Vice President, Secretary and Treasurer. The chair shall have the right to determine the order of business for the conduct of the meeting, including (but not limited to) the meeting's agenda.

In lieu of a different or special order of business established by the chair, the order of business at all Annual Meetings of the Members shall be as follows:

- (a) roll call to determine the voting power represented at the meeting;
- (b) proof of notice of meeting or waiver of notice;
- (c) approval of the minutes taken at the last annual meeting of the members;
- (d) reports of officers;
- (e) reports of committees;
- (f) appointment of inspectors of election;
- (g) election of Directors;
- (h) unfinished business; and
- (i) new business.

Section 3.15 Minutes. Minutes or a similar record of the proceedings of meetings of members, when written or electronically signed by the President or Secretary, shall be presumed truthfully to

evidence the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.

Section 3.16 Rights of the Association. With respect to the Common Areas and in accordance with the Articles of incorporation and the Declaration, the Association shall have the right to contract with any person for the performance of various duties and functions.

Section 3.17 Articles and Declaration. The Association shall be organized, governed and operated in accordance with its Articles of Incorporation, which shall be consistent with the provisions and purposes of this Amended and Restated Declaration. In the event there exists any conflict between the provisions contained within the Association's Articles of Incorporation and the provisions contained within this Declaration, the provisions of this Declaration shall control.

Section 3.18 Association Bylaws. This Declaration shall also constitute the Association's complete corporate Bylaws for purposes of the Michigan Nonprofit Corporation Act, MCL §450.2101 et seq. Upon the recording of this Declaration, any and all previously adopted Association Bylaws shall have no further force or effect.

Section 3.19 Remote Communication Meetings. As permitted by the Board of Directors and the entirety of this Section 3.19, a Member may participate in a meeting of the Members by a conference telephone or by other means of remote communication through which all persons participating in the meeting may communicate with each other.

Members shall be permitted to participate in a membership meeting via means of remote communication only upon the occurrence of one of the following: (i) the adoption of a resolution by the majority of the Board of Directors authorizing all Members to participate in the specific membership meeting in question by means of remote communication, or (ii) the Board's receipt of signed, written requests from at least ten percent (10%) of all of the Lots in the Subdivision in good standing requesting that members be permitted to attend the membership meeting via means of remote communication. Upon the Board's receipt of such written requests (which must be received by the Board at least ten (10) days prior to the membership meeting in question), the Board shall adopt a resolution to permit any and all Members to participate in the membership meeting by means of remote communication.

All participants shall be advised of the means of remote communication in use, and the names of the participants in the meeting shall be divulged to all participants. Participation in a membership meeting via remote communication under this Section constitutes presence in person at the meeting.

Subject to the requirements set forth above as to the methods by which the Board may permit members to participate in a membership meeting via means of remote communication and any other guidelines, rules, and/or procedures that might be adopted by the Board of Directors, Members and proxy holders that are not physically present at a meeting of the Members may participate in the meeting by a means of remote communication and are considered present in person and may vote at the meeting if all of the following are met:

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(a) the Association implements reasonable measures to verify that each person that is considered present and permitted to vote at the meeting by means of remote communication is a Member or proxy holder;

(b) the Association implements reasonable measures to provide each Member or proxy holder a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings; and

(c) if any Member or proxy holder votes or takes other action at the meeting by a means of remote communication, a record of the vote or other action is maintained by the Association. A Member or proxy holder may be present and vote at an adjourned meeting of the Members by a means of remote communication if that person was permitted to be present and vote by that means of remote communication in the original meeting notice.

The Board may hold a meeting of the Board of Directors that is conducted solely by means of remote communication in accordance with Article IV, Section 4.09 and 4.10 and the Nonprofit Corporation Act.

Section 3.20 Action without Meeting. Any action that may be taken at a meeting of the Members, except for the election or removal of Directors, may be taken without a meeting if the Association provides a ballot to each Member that is entitled to vote on the action in the manner provided in this Declaration for the providing of notice of meetings to Members. This provision authorizing Member action by ballot shall not preclude calling or holding annual or special meetings of the Members.

The ballot provided to the Members under this Section shall meet all of the following requirements:

- (a) set forth each proposed action;
- (b) state the number of responses that would be need to meet quorum;
- (c) state the percentage of approvals that would be necessary to approve the action;
- (d) provide an opportunity for the Members to vote for or against each proposed action; and
- (e) specify a time by which the Association must receive a ballot in order to be counted as a vote of the Member. The time shall be not less than 20 or more than 90 days after the date the Association provides the ballot to the Members.

An action is considered approved by the Members by ballot if the total number of members voting or the total number of member votes cast in ballots received by the Association by the

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time period specified in the ballots equals or exceeds the quorum required to be present at a meeting to take the action, and the number of favorable votes equals or exceeds the number of votes that would be required to approve the action at a meeting at which the number of votes cast by Member present was the same as the number of votes cast by ballot.

An invalid ballot, abstention or the submission of a ballot marked “abstain” with respect to any action does not constitute a vote cast on that action. A Member may not revoke a ballot received by the Association. The Board of Directors may establish procedures that enable Members or a specified number or percentage of Members to include proposed actions in a ballot. Votes may be cast in accordance with this Section by mail, hand delivery, email, facsimile, text, or by any other means of electronic transmission as that term is defined in the Nonprofit Corporation Act.

Notwithstanding the foregoing, in the event of a Catastrophic Event as defined in Section 3.21, the Association may elect the Directors in that year without conducting an Association meeting. Such an election may be conducted solely by ballots distributed and collected via regular mail, email, or any other means of written or electronic transmission. The quorum requirement for such any election conducted under this paragraph shall be the quorum requirement as set forth in Section 3.12.

Section 3.21 Catastrophic Events. In the event of a formally declared State or National Emergency, or a catastrophic event which causes substantial damage or destruction of the Subdivision and/or its Common Areas, or constitutes a substantial risk of harm or injury to the Members, the Subdivision and/or the Common areas (hereinafter defined as a “Catastrophic Event”), the Board of Directors shall be empowered to take those actions and to incur expenses of the Association as may be necessary, reasonable and prudent to secure, protect and safeguard the Property of the Association, the Subdivision, the Common Areas, and/or the Members’ interests therein.

In such an event, the Board shall be empowered to notify insurance companies as necessary to preserve known insurance claims, and to collect and disburse proceeds from insurance or other sources for such purposes, notwithstanding the lack of meetings of Members or Membership approval if otherwise required under this Declaration.

Every Co-owner displaced or otherwise out of contact with the Association by reason of the Catastrophic Event shall have the affirmative duty to notify the Board of their address and contact information for meeting notification purposes.

Section 3.22 Electronic Transmission. The terms, “Electronic Transmission” or “Electronically Transmitted” means any form of communication that meets all of the following:

- (a) It does not directly involve the physical transmission of paper.
- (b) It creates a record that may be retained and retrieved by the recipient.
- (c) It may be directly reproduced in paper form by the recipient through an automated process.

For any and all purposes of this Amended and Restated Declaration, any document which is required to be set forth “in writing” or in a written document (including, but not limited to, meeting notices, votes and ballots) may be transmitted electronically and/or set forth in an electronic transmission, and such electronic transmissions shall be deemed to fully satisfy any such “in writing” or written documentation requirements.

ARTICLE IV

BOARD OF DIRECTORS

Section 4.01 Composition and Selection – Governing Body; Composition. The affairs of the Association shall be exclusively governed by a Board of Directors, all of whom must be members of the Association or the legal spouse of a member, except that officers, partners, trustees, employees or agents of members that are legal entities and not individual persons may be designated by such entities to serve as directors, if elected, of the Association.

No Owner shall be eligible for election or appointment to the Board of Directors without residing in a Lot within the Subdivision, and being in Good Standing with the Association. “Good standing” shall mean that an Owner is current in all financial obligations to the Association and does not have any uncured defaults of any of the provisions of the Association’s Declaration or Articles of Incorporation.

Only one person per Lot shall be eligible as a candidate notwithstanding the fact that the Lot is jointly owned by two or more persons and/or entities, and no more than one person per Lot may serve as a director simultaneously. If a member is a partnership, then only a partner thereof shall be qualified and eligible to serve as a director. If a member is a corporation, then only a shareholder or a director thereof shall be qualified and eligible to serve as a director.

Neither landlords nor their tenants or agents shall be qualified or eligible to serve as a director. Directors shall not be compensated for their services as directors but may be reimbursed for reasonable out of pocket expenses.

Section 4.02 Number of Directors. The Board of Directors shall be composed of five (5) persons who shall manage the affairs of the Association. Each Director shall have one vote.

Section 4.03 Powers and Duties. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and as provided by law, and may do all acts and things as are not by the Declaration or the Articles directed to be done and exercised exclusively by the Members or the membership generally.

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The Board of Directors may delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to or in furtherance of the powers and duties granted or imposed in the Declaration or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of annual budgets in which there shall be established the assessments payable by each Owner;

(b) making assessments to defray the expenses establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;

(c) providing for the operation, care, upkeep, and maintenance of all of the Common Areas of the Subdivision;

(d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Common Areas and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association; provided any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening and closing of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Areas in accordance with the other provisions of the Declaration after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided In the Declaration, obtaining fidelity bond coverage and paying the premium cost of such insurance and bonds;

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(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;

(m) making available to any prospective purchaser of a Lot or any Owner, current copies of the Declaration, the Articles of Incorporation, rules governing the Lot and all other books, records, and financial statements of the Association;

(n) permitting utility suppliers to use portions of the Common Areas reasonably necessary to the ongoing development or operation of the Subdivision;

(o) borrowing money for the purpose of maintenance, repair or restoration of the Common Areas, without the approval of the Members of the Association. The Board shall also have the power to borrow money for other purposes; provided, the Board shall obtain Member approval in the same manner provided in the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed sixty (60%) percent of the budgeted gross expenses of the Association for that fiscal year. Notwithstanding anything to the contrary contained in this Declaration or the Articles of Incorporation, no mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Members representing at least sixty (60%) percent of the Members; and

(p) employing for the Association a professional management agent at reasonable compensation established by the Board to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed above, and the Board may delegate to such management agent any other duties or powers which are not by law or by the Association's Declaration or Articles of Incorporation required to be performed by or have the approval of the Board of Directors or the members of the Association. No management contract may have a term in excess of one (1) year. All management contracts must permit termination by either party without cause and without any termination fee upon ninety (90) days' or less written notice.

Section 4.04 Nomination of Directors. Nominations for election to the Board of Directors may be made by a Nominating Committee, if the Board chooses, in its sole discretion to appoint such a Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three (3) or more Members of the Association.

The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee (if appointed) shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of positions to be filled. Whether or not

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the Board chooses to appoint a Nominating Committee, nominations shall also be permitted from the floor at the Annual Meeting at which the election takes place. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Section 4.05 Election and Term of Office. At any election of Directors, each Member of the Association shall be entitled to cast the number of votes permitted to it with respect to each vacancy to be filled, and the candidates receiving the largest number of votes shall be elected. The term of office for each newly elected Director shall be two (2) years.

In order to continue staggered terms of office, at the first Annual Meeting after adoption of this Declaration, two Owners shall be elected to two-year terms. At the second Annual Meeting after the adoption of this Declaration, three Directors shall be elected to two-year terms. Thereafter all terms shall be two years in length.

The Directors elected by the Members shall hold office until their respective successors have been elected by the Association and take office. Directors may be elected to serve any number of consecutive terms.

In the event that the Association's Annual Meeting is postponed due to a Catastrophic Event as defined in Section 3.21, the existing Board of Directors shall continue to serve until such time as new Board Members are duly elected in accordance with this Declaration.

If the Annual Meeting does not occur in a given year due to a Catastrophic Event, then at the Annual Meeting which takes place in the following year, the Board seats that will be up for election shall include both the seats that should have been up for election during the year of the Catastrophic Event as well as those that would normally be up for election in the current year. The Directors who win election at the Annual Meeting in the current year shall each be awarded terms of office as follows: the Directors who win election with the three highest vote totals shall be awarded 2-year terms, with the remaining Directors who won election being awarded one-year terms. At the Annual Meeting which takes place in the subsequent year after that election, all terms of office shall be two (2) years.

The intention of the foregoing paragraph is to preserve staggered terms of office when an election of Directors to fill vacant Board seats may not occur in a given year due to a catastrophic event.

Section 4.06 Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the Directors may be removed with or without cause by affirmative vote of those Members who represent at least fifty-one (51%) percent in number of all of the Lots in the entire Subdivision and a successor may then and there be elected to fill any vacancy thus created. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. The quorum requirement for such a meeting shall be the same applies to the Annual Meeting as set forth in Article III, Sections 3.12 and 3.13.

Any Director who shall fail to attend any three (3) consecutive regular meetings of the Board shall be deemed to have automatically resigned effective as of the adjournment of the third meeting missed. A Director

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who becomes delinquent in the amount of any sum of money to the Association while serving on the Board must pay the full amount in default within sixty (60) days of the beginning of the delinquency.

If a Director is found in be in violation of any of the other terms of this Declaration or of the Articles of Incorporation (i.e., any non-monetary default or violation), the Director must cease or cure the violation within (30) days of the date of the Board's determination that a violation has occurred.

If the Director does not bring his account current or does not cease or cure the violation within the time periods set forth herein, then the Director may not continue to serve on the Board of Directors. In such event, the Director shall be deemed to have resigned as of the expiration of the applicable time period.

Section 4.07 Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the members of the Association may be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director until a successor is elected at the next Annual Meeting of the Association. The Board may consider past service to the Association as a factor in the selection of any of its appointees; no Owner shall be eligible for appointment if delinquent in the payment of any amount owed the Association.

In the event that a Director resigns or is deemed to resign under any provisions of this Declaration and there still remains at least three (3) Directors on the Board after the resignation, the remaining Directors may choose, in their discretion, to either appoint a replacement Director under this Section 4.07, or they may leave the Director's seat vacant until the next Annual Meeting, at which point the seat shall be filled at the next Annual Meeting by the Owners.

When a vacancy created by a Board member's resignation is filled at the next Annual Meeting, in the event that the term of the Director who resigned was not due to expire for another year, then the Director elected to fill the vacancy at the Annual Meeting shall serve out the remaining year of the term of the Director who resigned (or who was deemed to resign under this Declaration).

For purposes of the foregoing paragraph, the "Director elected to fill the vacancy" shall be the Director who won election to office at that year's Annual Meeting with the least number of votes compared to the other Directors who also won election that year.

Section 4.08 First Meeting of Board. The first meeting of the Board of Directors shall be held immediately following the Annual Meeting of the Membership or within ten (10) days thereafter at such time and place as shall be fixed by the Board. Notice of the meeting shall be given to the Directors as prescribed in Section 4.09 of this Article IV. The purpose of this meeting shall be the election of officers and such other matters as might come before the Board at a Regular meeting.

Section 4.09 Regular Board Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter.

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Notice of regular meetings of the Board of Directors shall be given to each Director, personally, by mail, fax, telephone or email, at least ten (10) days prior to the date named for such meeting.

Directors may vote electronically (email or text) and if all Directors concur in doing so the vote shall have the same effect as if a meeting had been physically held. Directors may also participate in meetings via conference call or other means of remote communication by which all persons can communicate with each other. Participation in a meeting via remote communication under this Section shall constitute attendance in person at the meeting.

Section 4.10 Special Meetings. Special meetings of the Board of Directors shall be held when called on three (3) days' notice by the President of the Association or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

The notice shall be given to each Director by one of the following methods:

- (a) by personal delivery;
- (b) written notice by first class mail, postage prepaid;
- (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the Director;
- (d) telecopier;
- (e) text; or
- (f) email.

All such notices shall be given at the Director's telephone number or sent to the director's address, email address, or text address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting.

Directors may vote electronically (email or text) and if all Directors concur in doing so the vote shall have the same effect as if a meeting had been physically held. Directors may also participate in meetings via conference call or other means of remote communication by which all persons can communicate with each other.

Section 4.11 Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting.

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Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.12 Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

If any meeting of the Board cannot be held because a quorum is not present, a majority of the Directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof, shall constitute the presence of such Director for purposes of determining a quorum.

Section 4.13 Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 4.14 Action without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing or by means of electronic transmission, setting forth the action so taken, shall be signed by all of the directors, and such consents shall have the same force and effect as a unanimous vote. The written consents shall be filed with the minutes of the proceedings of the Board.

Section 4.15 Committees. Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 4.16 Executive Sessions. The Board of Directors, in its discretion, may close a portion or all of any meeting of the Board of Directors to the Members of the Association or may permit Members of the Association to attend a portion or all of any meeting of the Board of Directors. Any Member of the Association shall have the right to inspect, and make copies of, the minutes of the meetings of the Board of Directors; provided, however, that no Member of the Association shall be entitled to review or copy any minutes which reference privileged communications between the Board of Directors and counsel for the Association, or any

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other matter to which a privilege against disclosure pertains under Michigan Statute, common law, the Michigan Rules of Evidence, or the Michigan Court Rules.

Section 4.17 Conflicts of Interest. In the event any Director shall have any relationship or transactions with, or interest in, any person or entity with whom or which the Association may have any contractual dealings, such Director shall have an affirmative duty to disclose such relationship, transactions, or interest, in writing, to the Board of Directors at a Board meeting as soon as such contractual dealings are contemplated or initiated.

The proposed contractual dealings must be fair to the Association at the time entered into, and the Director must disclose or make known to the Board all material facts of such relationships, transactions, and /or interests. If a Director has any such relationships, transactions or interest, he shall recuse himself from any vote taken by the Board to ratify or approve the contractual dealings.

ARTICLE V

OFFICERS

Section 5.01 Officers; Compensation Prohibited. The officers of the Association shall be President, Vice President, Secretary, and Treasurer, all of whom shall be members of the Board of Directors. The Board of Directors may appoint such of the officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors.

No person shall be permitted to hold more than one officership at a time. Officers shall not be compensated for their services as officers but may be reimbursed for reasonable out-of-pocket expenses.

Section 5.02 Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article IV. A vacancy in any office arising because of death, resignation, removal, or otherwise may filled by the Board of Directors for the unexpired portion of the term at any Special or Regular Meeting of the Board.

Section 5.03 Removal. Upon affirmative vote of a majority of the members of the Board of Directors, any officer may be removed from their officership either with or without cause, and a successor may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose. No such removal action may be taken, however, unless the matter shall have been included in the notice of such Board meeting. The officer who is proposed to be removed from their officership shall be given an opportunity to be heard at the meeting.

An officer who is removed from their officership shall remain on the Board as a Director at large unless otherwise removed from the Board by the Owners under Article IV, Section 4.06 of this Declaration.

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Section 5.04 President. The President shall be the chief executive officer of the Association and shall act as the chairperson for all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of the President of a homeowner's association.

Section 5.05 Vice President. The Vice President shall take the place of the President and perform his/her duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him/her by the Board of Directors.

Section 5.06 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of the meetings of the members of the Association; they shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all duties incident to the office of the Secretary. The Secretary, or, in the absence or disability of the Secretary, the Treasurer, shall sign the minutes upon their approval by the Board. The minutes may be signed electronically.

Any Member shall be entitled to obtain a copy of the approved and signed minutes except minutes of executive sessions of the Board. The Association shall have the right to require advance payment of the reasonable cost of providing requested copies of minutes.

Section 5.07 Treasurer. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall review and oversee payments of all invoices, deposits, and other valuable effects in the name and to the credit of the Association, and any other matters, from time to time, as might be designated by the Board of Directors.

Section 5.08 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date or the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.09 Agreements, Contracts, Deeds, Leases, Checks, Etc. Unless otherwise specified herein, all agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by the President or by such other person or persons and in accordance with such requirements as may be designated by the Board of Directors.

Section 5.10 Miscellaneous; E-Signatures. The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board of Directors. To the extent that the signature of any Officer is required in fulfillment of or in relation to the Officer's duties under this Article V or elsewhere in this Declaration, electronic signatures shall constitute valid signatures to the fullest extent permitted by the Nonprofit Corporation Act and other applicable law.

ARTICLE VI

COMMON AREAS

Section 6.01 Parks and Community Pool Facilities. Each Member of the Association shall have the right and nonexclusive easement to use the Parks, Community Pool Facilities, and other Common Areas within the Subdivision, which easement shall be appurtenant to, and shall pass with title to, every Lot.

The Association shall be responsible for the maintenance and upkeep of the Parks, Community Pool Facilities and other Common Areas, subject to the ordinances, rules and regulations of governmental entities having jurisdiction over same, and any maintenance agreements and/or easements entered into between the Association and any governmental entity with respect to any portion of the Common Areas, Community Pool Facilities and Parks, including any Stormwater Management System located within the Parks and other Common Areas.

The Parks, Community Pool Facilities and other Common Areas are to be used for recreation and open space purposes, provided, however that those areas which are part of the Stormwater Management System shall be used as such. The Association shall have the right to establish additional rules and regulations with respect to the Parks, Community Pool Facilities and other Common Areas as the Board of Directors may deem necessary or desirable to ensure the proper preservation and functioning such areas and facilities.

Section 6.02 Boulevard Islands. The Association shall be responsible for the maintenance, repair and replacement of all Landscaping and Irrigation Improvements that are within the Boulevard Islands, subject to the ordinances, rules and regulations of any governmental agencies having jurisdiction over the streets and rights-of-way within the Subdivision, and subject to any maintenance agreements entered into between the Association and any governmental entity having jurisdiction.

The Association shall have the right to establish rules and regulations as the Board of Directors may deem necessary or desirable for the maintenance, upkeep and beautification of all Boulevard Islands in order to insure an aesthetically pleasing appearance for the Subdivision.

Section 6.03 Title to Common Areas. The Developer conveyed to the Association title to the Common Areas. The foregoing conveyance of the Common Areas was subject to the rights and easements of use and enjoyment in and to such Common Areas by the Owners, any easements reserved, dedicated or granted by Developer as indicated on the recorded plat(s) for the Subdivision and any open space maintenance agreements or other maintenance and/or easement agreements entered into with the Township or other governmental entity prior to the date of conveyance. Such easement of enjoyment shall not be personal, but shall be considered to be appurtenant to the Lots and pass with the title to the Lots whether or not specifically recited in the deeds of conveyance of and to such Lots.

The Association shall have the right without the consent of the Association or any of its Members, to increase or reduce the size of the Common Areas or to grant easements through it for the purpose of

causing the installation of any utility lines, television cable, drainage facilities or other improvements which would serve and benefit the residents of the Subdivision.

Section 6.04 Association Property Rights in Common Areas. The right and easement of each Owner in and to the Common Areas shall be subject to the provisions of Article VII and the right of the Association to grant easements, dedicate or transfer all or part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members.

Section 6.05 Drainage Easement & Natural Area. A fifteen (15) foot wide permanent easement, in favor of the Washtenaw County Drain Commissioner and the Association, is shown along the rear of Lots 194 through 201 of the Village of Hickory Pointe No. 4 Subdivision. This easement shall be planted with and maintained in native grasses only. It shall not be mowed, and lawn chemicals may not be applied to it. Signs in the form and bearing the text set forth below shall be placed at alternate rear year property corners of these lots and perpetually maintained.

NATURAL AREA

This property is a natural area that provides filtration of pollutants and protects pond habitat. The vegetation is not to be disturbed. Lawn care chemicals are prohibited.

Mowing by homeowners is prohibited.

Village of Hickory Pointe Homeowners' Assoc.
and
Washtenaw County Drain Commissioner

The Association and the Washtenaw County Drain Commissioner shall have the right to enforce this obligation in any manner otherwise permitted by this Declaration.

ARTICLE VII

COVENANTS FOR MAINTENANCE AND CAPITAL CHARGES

Section 7.01 Creation of the Lien and Personal Obligation for Assessments. Each Owner of Lot in the Subdivision, by accepting title to such Lot, or by entering into a land contract for the purchase of such Lot, shall be deemed to covenant and agree to pay the Association, when due, the assessments described below, regardless of whether or not such covenant shall be expressed in such Owner's instrument of conveyance or land contract:

- (a) annual assessments to meet regular Association expenses, which shall include such assessments required to maintain any easement referenced in this Declaration;

*The Village of Hickory Pointe
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- (b) special assessments for capital improvements, to be established and collected as set forth below;
- (c) special assessments for the maintenance of Owners' premises, to be established and collected as set forth below; and
- (d) all other assessments for taxes, levies, assessments or other charges lawfully imposed or charged to the Association with respect to the Common Areas.

The foregoing assessments, together with such interest thereon and costs of collection thereof (including court costs and reasonable attorneys' fees) which are described below, shall be a lien on the Lot against which they are made and all improvements thereon. Each such assessment, together with interest thereon, and the costs of collection thereof, in addition to constituting a lien on such Lot and improvements, shall also constitute a joint and several personal obligations of the person or persons who was/were the Owner(s) of the Lot on the date the assessment was established.

Section 7.02 Purpose of Annual Assessments. The annual assessments levied under this Article VII and the working capital funds required under Section 7.03 (c), shall be used by the Association for the purpose of:

- (a) promoting the recreation, health, welfare and safety of the residents of the Subdivision;
- (b) improving, landscaping and maintaining the Common Areas;
- (c) providing services and facilities for the benefit of residents of the Subdivision;
- (d) maintaining, beautifying and improving the streets, parkways, rights-of-way, entrance ways and other common improvements within the Subdivision; and
- (e) discharging any taxes, insurance premiums and mortgage installments relating to the Common Areas, including without limit, the Parks and Community Pool Facilities.

Section 7.03 Assessments. Commencing in the year the Association is formed, and for each fiscal year of the Association thereafter, assessments shall be levied and paid in the following manner:

- (a) The Board of Directors of the Association shall levy against each Lot an annual assessment, based upon the projected costs, expenses and obligations of the Association for the ensuing fiscal year, which assessment shall be a specified amount per Lot.

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Notwithstanding any other provision of this Declaration, the annual assessment may not be increased by more than fifteen (15%) percent of the annual assessment for the preceding year without the affirmative vote of the Owners representing at least sixty-six (66%) percent of the total Lots in the Subdivision, cast in person, by proxy or by written ballot at a meeting of the Members called for such purpose. The quorum requirements for such a meeting shall be the same as those specified in Section 7.04 (a) below.

(b) Should the Board of Directors at any time determine, in its sole discretion, that the annual assessments levied are or may prove to be insufficient:

(i) to pay the costs, expenses and obligations of operation and management of the Association, the Subdivision, and the Common Areas;

(ii) to provide for the maintenance, repair or replacement of the Common Areas; or

(iii) in the event of emergencies;

the Board shall have the authority to levy such additional assessment(s) as it shall deem necessary, subject to any restrictions on the Board's authority to levy such additional or increased annual assessments as might be specified elsewhere herein.

Notwithstanding the foregoing, the Board may not levy any additional assessment that is more than fifty percent (50%) of the amount of the annual assessment that was levied in that year. The Board shall obtain the consent of the Owners of at least sixty percent (60%) of all of the Lots in the Subdivision before levying any additional assessment that is more than fifty percent (50%) of the current annual assessment amount in accordance with the same rules and approval requirements that are set forth in regard to special assessments under Section 7.04 of this Article.

(c) Within thirty (30) days following the beginning of each fiscal year of the Association, the Board of Directors shall send a written notice of assessment to each Owner stating the amount of the annual assessment established by the Board of Directors for the ensuing year.

Each Owner shall pay said assessment within sixty (60) days from the date said written statement is mailed. Assessments not paid within said sixty (60) day period shall be considered to be delinquent. After the expiration of the sixty (60) day period, interest shall automatically accrue on delinquent assessments at the interest rate of 7% per annum, or the highest rate of interest allowed by law.

The Association may also impose a monthly late charge for any annual, additional or special assessment that becomes delinquent hereunder. The late charge shall be in the amount of Twenty-Five Dollars (\$25.00) per month, or such other amount as may be determined by the Board of Directors from time to time. In the event the Board establishes a new late charge amount, it shall give written notice to all Members thirty (30) days before the new late charge rate shall become applicable. Such late charge shall not be deemed to be a penalty or interest upon the funds due to the Association but is intended to constitute a reasonable

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estimate of the administrative costs and other damages incurred by the Association in connection with the late payment of assessments.

All payments made on a delinquent account shall be applied in the following order of priority: non-sufficient funds check charges, attorney fees and costs, late charges, interest, fines, annual assessments, additional assessments, special assessments and lastly, miscellaneous (such as expense charge backs).

(d) Any Owner who acquires a Lot from Developer or from a person or entity exempt from the payment of assessments under Section 7.07 below, shall pay to the Association, on the date said Lot is conveyed to the Owner an amount equal to the prorated balance of annual assessment and special assessment, if any, established for the then current assessment period, based upon the number of days remaining in the then current assessment period from the date of conveyance. For each fiscal year thereafter, such Owner shall be liable for any and all assessments levied in accordance with this Article VII.

(e) The fiscal year of the Association shall be established in the manner set forth in this Declaration or as otherwise might be determined by the Board of Directors.

(f) The Board of Directors, in its discretion, may establish an installment program for the payment of any regular, special or deficit assessment and may charge interest in connection therewith.

Section 7.04 Special Assessments for Additions to Common Areas.

(a) The quorum required for any meeting called for the purpose of voting on a special assessment shall be those Owners who represent at least thirty (30%) percent of all of the Lots in the Subdivision that are eligible to vote, either in person, by proxy or by written ballot. Notwithstanding any other provision of this Declaration, this quorum requirement may not be reduced below thirty (30%) percent of all of the Lots in the Subdivision as defined in this sub-Section (a) in any event.

(b) In addition to the annual and additional assessments authorized by Section 7.03 above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any constructing or installing of any additions to the Common Areas, provided, however, that no such special assessment shall be levied unless first approved Owners representing at least sixty (60%) percent of the Lots who are eligible to vote at a meeting of the Association Members duly called for such purpose.

Written notice of such meeting shall be sent to all Members at least thirty (30) days in advance of the meeting, which notice shall set forth the purpose of the meeting. Any such special assessments shall be due and payable according to the terms and conditions and in the manner specified in the resolution of the Association.

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Any special assessment not paid when due shall be deemed delinquent and interest shall accrue on such delinquent assessment at the interest rate established by resolution of the Association Board of Directors, which interest rate shall not exceed the highest rate allowed by law.

Section 7.05 Uniform Assessment Rate; Assessments against Specific Properties.

(a) Subject to Section 7.05 (b) below, all annual, special and deficit assessments shall be fixed and established at the same rate for all Lots within the Subdivision.

(b) In addition to the assessments otherwise authorized in this Article VII, the Association may levy a special assessment against one or more specific Lots, for the purpose of maintaining and caring for the surface thereof and any plantings, landscaping or other vegetation located thereon.

A special assessment for such purposes shall not be levied except in compliance with the following procedures:

(i) The Association shall determine that the appearance of a Lot, or a portion thereof, significantly detracts from the appearance and attractiveness of the remainder of the Property or otherwise constitutes a violation of the restrictions set forth in Article VIII herein below. Such determination shall be made by the Association's Board of Directors.

(ii) Written notice of such determination which specifies the nature of the unsatisfactory condition and the actions required to remedy the unsatisfactory condition, shall be delivered to the Owner of the offending Lot.

(iii) The Owner shall have a period of not less than thirty (30) days from the date said Owner receives the above referenced notice to commence the required work.

(iv) If the Owner has not commenced the required work within said thirty (30) days period or, if having commenced such work, it is not completed within a reasonable time after commencement, the Association shall have the right to enter upon the Owner's property, complete the required work and assess the reasonable cost against such Lot together with interest thereon at the rate of seven (7%) percent per annum or the maximum lawful rate, until paid in full.

Section 7.06 Certificate with Respect to Assessments. Upon the written request of any Owner, the Association shall furnish, within a reasonable time, a written certificate regarding the status of any assessments levied against such Owner's Lot(s). Any such certificate, when properly issued by the Association, shall be conclusive and binding with regard to the status of the assessment as between the Association and any bona fide purchaser of said Lot(s) described in the certificate and the lender who has taken a lien on said Property as security for the repayment of a loan.

Section 7.07 Exemptions from Assessments.

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(a) All Lots owned by Developer shall be exempt from all regular, special and deficiency assessments. Upon conveyance of any Lot by Developer to a Member who is not a Builder a developer (as said terms are defined in Section 7.07 (b) below), the exemption for each such Lot shall thereupon cease and such Lot shall then be liable for the prorated balance of that year's established annual assessment and special assessment, if any. Notwithstanding the foregoing, however, any Lots owned by Developer shall not be exempt from assessments by the Township for real property taxes and other charges.

(b) Builders or developers who own or hold any Lot(s) for resale to customers in the ordinary course of business shall not be liable for the payment of any regular, special or deficit assessments imposed by the terms of this Article VII; provided, however, that any exemption established by this Section 7.07 (b) shall cease and terminate as to any Lot contained in the Subdivision in the event construction is not commenced within two (2) years from the date the Lot is acquired by such Builder or developer.

Section 7.08 Subordination of Liens to Mortgages. The lien for assessments provided for in this Article VII shall be subordinate to the lien of any mortgage or mortgages held by any bank, insurance company, mortgage company, or other similar institution existing of record at the time the lien for assessments shall be imposed.

Sale or transfer of a Lot, or any portion thereof, shall not affect the assessment lien. However, the sale or transfer of any Lot in connection with a mortgage foreclosure proceeding, or any proceeding in lieu thereof, shall extinguish the lien of the assessments, interest and charges, which became due prior to such sale or transfer, but in no such event shall the prior Owner of said Lot be relieved of any liability for such obligations and debts. No sale or transfer pursuant to any foreclosure proceeding, or any proceeding in lieu thereof, shall relieve any Lot from any assessments thereafter levied or from the lien accruing from such assessment, and not subsequent sale or transfer shall release such Lot from liability for any assessment, interest or charges which thereafter become due or from any lien therefor.

Section 7.09 Collection of Assessment and Creation of Lien. If any assessment is not paid within thirty (30) days from the date payment is due, upon giving written notice of the delinquency to the Owner as required under Article X of this Declaration, Association may sue the Owner and obtain a personal money judgment and foreclosure judgment against said Owner and/or may enforce the lien under Article X in the same manner as, and by following similar procedures which are required for the foreclosure of mortgages, whether by advertisement or judicial action, including the allowance of costs and reasonable attorneys' fees.

Section 7.10 Maintenance of Stormwater Management System: Action by the Township. The Stormwater Management System shall be maintained by and at the expense of the Association in accordance with the Drain District Agreement and the Maintenance Tasks and Schedule During Construction and Maintenance Tasks and Schedule as prescribed by the Township and attached hereto as Exhibit "C" and made a part hereof. Prior to conveying any portion of the Common Areas to the Association, Developer agrees to have the Stormwater Management System inspected by an engineer to

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verify the condition of detention and filtration areas and make recommendations for any necessary sediment removal and/or repairs.

In the event the Association fails at any time to maintain the Drain in reasonable order and condition, the Township may serve written notice upon the Association setting forth the manner in which the Association has failed to maintain the Drain, and such notice shall include a demand that deficiencies of maintenance be cured within thirty (30) days of the notice, unless other acceptable arrangements are made.

The Association may, within thirty (30) days from the date of the notice, request a hearing to appeal the Township's determination, before the Board authorized by the Township Board of Trustees to hear such appeals. In the event the Association requests such a hearing, a hearing shall be held within a reasonable time after the receipt of the Association's request. At such hearing, the terms of the original notice may be affirmed, modified or reversed.

If the deficiencies set forth in the original notice, or any modification thereof, are not cured within such thirty (30) day period or any agreed extension thereof, the Washtenaw County Drain Commission ("WCDC") may enter upon the Common Areas and perform the required maintenance to cure the deficiencies. The cost incurred by the WCDC to perform any such maintenance shall be assessed equally against each Lot and collected in the same manner as general property taxes, including the provisions under state and local law for payments of interest, penalty and foreclosure.

ARTICLE VIII

GENERAL RESTRICTIONS

Section 8.01 Land and Building Use Restrictions. All Lots shall be primarily used for private residential purposes and no building, except an existing building as of the date hereof or as otherwise specifically authorized elsewhere in this Declaration, shall be erected, re-erected, placed or maintained or permitted to remain thereon, except one (1) single family private dwelling or model home and an attached private garage containing not less than two (2) nor more than four (4) parking spaces for the sole use of the Owner or occupants of the dwelling.

The installation of sheds anywhere in the Subdivision is prohibited. Notwithstanding the foregoing, any Owner whose shed was installed on their Lot prior to the recording of this Amended and Restated Declaration shall be permitted to keep the shed as it currently exists. Such an Owner shall not relocate the shed or modify the existing shed's appearance in any way without the prior written approval of the Architectural Control Committee.

No other accessory building or structure may be erected in any manner or location without the prior written consent of the Association's Architectural Control Committee in accordance with Article IX of this Declaration.

Section 8.02 Dwelling Quality and Size; Setbacks. It is the intention and purpose of this Declaration to ensure that all dwellings in the Subdivision shall be of quality design, workmanship and materials approved by the Association and constructed in accordance with the applicable governmental building codes, ordinances and/or regulations and with such further standards as may be required by this Declaration or by the Association, its successors and/or assigns.

The minimum square footage of floor area of a dwelling, exclusive of attached garages, steps, opened and/or closed porches, breezeways and similar facilities, shall be not less than one thousand three hundred (1,300) square feet. All setbacks shall be in accordance with the minimum applicable setback restrictions of the Township.

Notwithstanding the foregoing, the Architectural Control Committee referred to in Article IX below shall be entitled to grant exceptions to the above-referenced minimum square footage restrictions to the Owner of a Lot who applies for such exception; provided said Owner demonstrates to the satisfaction of the Architectural Control Committee that a reduction in the square footage requirement as to said Owner will not adversely affect the quality of the Subdivision or lessen the value of the homes surrounding the home to be constructed by the Owner on such Lot. Any such exception granted to an Owner shall be evidenced by a written agreement and no such exception shall constitute a waiver of any minimum square footage requirement as to any other Lot or Lot Owner.

Section 8.03 Building Location. Except as provided in Section 8.04, all buildings and structures shall be located on each Lot in accordance with the Township's requirements set forth in its zoning ordinance.

Section 8.04 Lot Size. The minimum size for each Lot shall be the Lot size established for said Lot in the recorded plat of each Subdivision. In the event more than one (1) Lot, or portions thereof, are developed as a single unit (and except as to the obligation of each Lot Owner for any assessments made against each separate Lot), all restrictions set forth in this Declaration shall apply to such resulting unit in the same manner as to any single Lot.

Section 8.05 Driveways. Access driveways and other paved areas for vehicular use on a Lot shall have an approved based material and shall have a wearing surface of concrete or the equivalent thereof. Plans for driveways, pavement edging or markers must be approved by the Architectural Control Committee in writing prior to commencing any construction in accordance with such plans.

Section 8.06 Natural Drainage Ways. Where there exists on any Lot(s) a condition of accumulation of storm water remaining over an extended period of time, the Owner may, with the written approval of the Architectural Control Committee and the Township, take such steps as shall be necessary to remedy such condition, provided that no obstructions or diversions of existing storm drain sales and channels, over and through which storm water naturally flows upon or across any Lot, shall be made by an Owner in such manner as to cause damage to other property.

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Section 8.07 Building Materials. Exterior building materials may be stone, brick, wood, siding or any other material blending with the architecture and natural landscape which is approved by the Association's Architectural Control Committee.

Section 8.08 Home Occupations and Offices. Uses of homes that are expressly prohibited and which do not qualify as an acceptable home office or home occupation include (but are not necessarily limited to) the following: barber shop, styling salon, beauty parlor, tea room, child day care center, adult care facility, rooming house, "halfway" house, rehabilitation facility, and animal hospital or any other form of animal care or treatment (such as dog grooming).

The provisions of this Section shall not be construed to prohibit an Owner from maintaining a personal professional library or from keeping personal, professional, or business records in their home, or handling personal business or professional telephone calls in that Owner's home.

In addition to complying with the rest of this Section, to be permitted as a "home occupation" or "home office," there must be:

- (a) no sign or display that indicates from the exterior that the dwelling is being utilized for any purpose other than that of a residential dwelling;
- (b) no goods or commodities kept for viewing or sale in the dwelling or within the Subdivision; and
- (c) no mechanical or electrical equipment used in conjunction with the home office or occupation other than personal computers or other standard office equipment;
- (d) no employees or other persons performing any work; and
- (e) no regular meetings held at the dwelling with clients or customers relating to the home occupation or office.

Section 8.09 Nuisances, Animals, Offensive Activity, and Livestock. No noxious or offensive activity shall be carried on in or upon on any Lot or premises nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, other than normal construction activity.

No chickens or other fowl or livestock shall be kept or harbored on any Lot. No animals or birds shall be maintained on any Lot, except customary house pets for domestic purposes only. Dog kennels or runs or other enclosed shelters for animals must be approved by the Association and the Township, and be kept in a clean and sanitary manner. All animal life maintained on any Lot shall have such provisions and care so as not to become offensive to neighbors or to the community on account of noise, odor, unsightliness and no household pets shall be bred, kept or maintained for any commercial purposes whatsoever.

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No animal may be permitted to run loose at any time within the Subdivision and any animal shall at all times be leashed and accompanied by a responsible person while in the Subdivision. No savage or dangerous animal shall be kept in or brought into the Subdivision, and any Owner who causes any such animal to be brought or kept upon the premises shall indemnify and hold harmless the Association for any loss, damage or liability (including costs and attorney's fees) which the Association may sustain as a result of the presence of such animal on the premises, whether or not the Association has given its permission therefore, and the Association may assess and collect from the responsible Owner such losses and/or damages in the manner provided in Article VII hereof. The Board may adopt such additional reasonable rules and regulations with respect to animals as it may deem proper.

No burning of refuse shall be permitted outside the dwelling, except that the burning of leaves shall be permitted if allowed by ordinance of the Township. No Lot shall be used or maintained as a dumping ground for rubbish or trash, whether occupied or not.

Section 8.10 Plant Diseases or Noxious Insects. No plants, seeds or other things or conditions harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Lot.

Section 8.11 Temporary Buildings, Damaged Dwellings and Reconstruction. No trailer, mobile home, van, tent, shack, garage, bam, out-building or structure of a temporary character shall be used at any time as a temporary or permanent residence, nor shall any basement be used for such purposes.

No old or used buildings of any kind whatsoever shall be moved or reconstructed on any Lot. Any building damaged or destroyed by any cause, for which repair or reconstruction has not commenced within six (6) months from the date of damage or destruction, shall be removed so that there are no ruins or debris remaining within six (6) months from the date of damage or destruction. Any building which is not completed within two (2) years from commencement of construction or any damage or destruction not promptly remedied shall be deemed a nuisance and may be abated as provided by law.

Any and all property within any public or private road or right-of-way which is disturbed by reason of any work performed by an Owner, or said Owner's agents, servants, employees or independent contractors, in erecting any building or structure on said Owner's Lot shall be restored by said Owner, at his or her sole expense, to its condition immediately prior to the commencement of such work. Said restoration shall be performed immediately following the completion of said work or, if such work is not completed, within a reasonable time following the date the work

Section 8.12 Soil Removal. Soil removal from Lots shall not be permitted, except as required for building construction and as permitted by the Association. In addition, all construction shall be subject to the requirements of the Michigan Soil Erosion and Sedimentation Control Act, as amended and all other applicable statutes, ordinances, rules and regulations of all governmental agencies having jurisdiction over such activities.

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Section 8.13 Underground Wiring. No permanent lines or wires for communication or other transmission of electrical or power (except transmission lines located on existing or proposed easements) shall be constructed, placed or permitted to be placed anywhere above ground on a Lot other than within buildings or structures. This section does not apply to the installation or use of invisible fencing or other similarly functioning product.

Section 8.14 Maintenance of Side Strips. Owners of Lots shall be responsible for the maintenance of parkways or public rights-of-way located between their Lot lines and edges of street pavements on which said Lots abut.

Section 8.15 Tree Removal. It shall be the responsibility of each Lot Owner to preserve all large trees on his Lot, which responsibility includes welling trees, if necessary. Owners are responsible generally for maintaining, cutting and trimming all trees on their Lots, and for removing and replacing within a reasonable time any dead trees located thereon. Lot Owners shall be responsible for replacing any trees that might be located in the area on the Owner's Lot between the sidewalk and the street with trees of a similar kind and quality.

Section 8.16 Performance of Construction. No building shall be erected on any Lot except by a contractor licensed by the State of Michigan for such purpose.

Section 8.17 Vehicular Parking and Storage. No trailer, mobile home, bus, boat trailer, boat, camping vehicle, recreational vehicle, commercial or inoperative vehicle of any description shall at any time be parked, stored or maintained on any Lot other than temporarily (7 days total within a 30-day time period), unless stored fully enclosed within an attached garage or similar structure; provided, however, that construction trailers, trucks and equipment may be parked and used on any Lot during construction operations.

No commercial vehicle lawfully upon any Lot for business shall remain on such Lot except in the ordinary course of business and in conformity with all applicable laws and/or ordinances.

Section 8.18 Garbage and Refuse. Trash, garbage or other waste shall be kept only in closed, sanitary containers and shall be promptly disposed of so that it will not be objectionable to neighboring property owners. No outside storage for refuse or garbage shall be maintained or used unless the same shall be properly concealed. The burning or incineration of rubbish, trash, construction materials or other waste outside of any residential dwelling is strictly prohibited.

Section 8.19 Fences and Obstructions. With the exception of any fencing or fencing improvements installed by the Developer or by a Lot Owner after being validly and expressly approved in writing by either the Developer or by the Board prior to the recording of this Amended and Restated Declaration, no perimeter fences of any kind may be erected on any Lot.

No other types of walls or other similar structures shall be erected on any Lot without the prior written approval of the Architectural Control Committee.

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Fences that enclose swimming pools approved by the Association under Section 8.22 shall be permitted if the pool is otherwise approved by the Association and the Township. Such fences may not be chain link and must otherwise comply with the standards for such fences as might be established by the Board and Township.

In the event that any enforcement action on the part of the Association becomes necessary as a result of an Owner's installation of any unapproved fence or other similar structure on a Lot or other property within the Subdivision, the Association shall be entitled to utilize any and all legal and equitable remedies available to it under the law and this Declaration against the Owner and their Lot, including (but not limited to) assessment to and recovery from the Owner and their Lot of the Association's attorney's fees and costs (including pre-litigation fees and costs) incurred arising out of or relating to such enforcement and/or the Association's removal of the unapproved fence or other similar structure.

Section 8.20 Landscaping and Grass Cutting. Upon completion of a residential dwelling on any Lot, the Owner thereof shall (subject to the provisions of any applicable easement for Greenbelt Areas) cause such Lot to be finish graded, seeded or sodded and suitably landscaped as soon after such completion as weather permits, and in any event within ninety (90) days from the date of completion, weather permitting.

Front yards shall be sodded only and rear yards may be sodded or seeded at each Lot Owner's election. All Lots shall be kept weed-free regardless of whether the Owner has constructed a dwelling upon the Lot. If said Owner fails to mow or cut weeds or grass within ten (10) days after being notified in writing, the Association may perform such work and the cost thereof shall become a lien upon the Lot(s) involved until paid.

Section 8.21 Motorized Vehicles. No trail bikes, snowmobiles or other motorized recreational or "off-road" vehicles shall be operated on any Lot or in any Common Area, Drain, side strip, Parks, or retention area of the Subdivision.

Section 8.22 Swimming Pools, Tennis Courts and Other Structures. No swimming pools, tennis courts, outdoor whirlpools, hot tubs, or other recreational structures shall be constructed by an Owner on any Lot without the prior written approval of the Architectural Control Committee.

No above-ground swimming pool shall be permitted. The construction of any swimming pool or other recreational structure which has been approved in writing by the Developer or the Association shall be constructed in accordance with this Declaration and with all applicable local ordinances and/or state laws. Hot tubs and whirlpools are permitted only if located upon the Owner's deck (or under the deck, if the Owner has a second-story deck).

Section 8.23 Signs; Illumination. No signs shall be placed upon any Lot or on any building or structure located on a Lot, or any portion thereof, unless the plans and specifications therefor have been approved in writing by the Architectural Control Committee, with the exception of:

- (a) the temporary use of non-illuminated signs not more than four (4) square

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feet in area pertaining only to the sale of the premises upon which it is maintained;

(b) non-illuminated signs not more than four (4) square feet in area pertaining only to a garage sale conducted on the premises, which garage sale and sign placement shall not exceed three (3) days; and

(c) political signs not more than four (4) square feet in area, which may only be placed during the thirty (30) days preceding any election and must be removed within 24 hours of conclusion of election.

No exterior illumination of any kind shall be placed or allowed on any portion of a Lot other than on a residential dwelling, unless first approved by the Architectural Control Committee. The Architectural Control Committee shall approve such illumination only if the type, intensity and style thereof are compatible with the style and character of the development of the Lot. The Board may adopt additional rules and regulations prohibiting placement of all signs without prior written permission from the Board of Directors at their sole discretion.

Section 8.24 Objectionable Sights. Exterior fuel tanks, above ground, shall not be permitted. The stockpiling and storage of building and landscape materials and/or equipment shall not be permitted on any Lot, except such materials and/or equipment as may be used within a reasonable length of time. In no event shall the storage of landscape materials extend for a period of more than thirty (30) days. No laundry drying equipment shall be erected or used outdoors and no laundry shall be hung for drying outside of the dwelling.

No television or radio antennae shall be constructed or erected upon the exterior of any dwelling on any Lot, without the prior written approval of the Architectural Control Committee except as permitted by the F.C.C. Over the Air Reception Devices Rules.

Section 8.25 Maintenance. The Owner of each Lot and the occupants of any dwelling or any portion of the Property shall keep all buildings and grounds in good condition and repair at all times. All wood trim and siding on an Owner's dwelling must be kept free of mold and rot.

Subject to the express terms of this Declaration, the Board of Directors may adopt reasonable rules and regulations regarding the Owner's maintenance of their dwelling's exterior and of any improvements on their Lot.

Section 8.26 Easements. Easements for the construction, installation, maintenance and replacement of public utilities, service drainage facilities, sanitary sewer, storm sewer, water supply facilities, are indicated on the recorded plats for the Subdivision. No structure, landscaping or other materials shall be placed or permitted to remain within any of the foregoing easements which may damage or interfere with the installation or maintenance of the aforesaid utilities or which may change, obstruct or retard the flow or direction of water in, on or through any drainage: channels, if any, in such easements, nor shall any change be made by any Owner in the finished grade of any lot once established

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by the builder of any residential dwelling thereon, without the prior written consent of the Architectural Control Committee.

The Association shall have access over each Lot for the maintenance of all improvements in, on, over and/or under any easement which burdens such lot, without charge or liability for damages. Except as may otherwise be provided in this Declaration, or in any maintenance agreement made between the Association and any municipal or governmental authority, the Owner of each Lot shall maintain the service area of all easements within his or her Lot, keep grass and weeds cut, keep the area free of trash and debris and take such actions as may be necessary to eliminate or minimize surface erosion. The Owner of each Lot shall be liable for any damage to any improvements which are located in, on, over and/or under the subject easement, including, but not limited to, damage to electric, gas, telephone and other utility and communication distribution lines and facilities, which damage arises as a consequence of any act or omission of the Owner, his or her agents, contractors, invitees and/or licensees.

Section 8.27 Greenbelt Areas. Developer constructed certain greenbelt and landscaped area improvements and/or berms located in part on Lots 1 - 16 in Phase I in accordance with the recorded plat for Phase I and landscaping plans approved by and on file with the Township. The Association shall have a perpetual easement of ingress and egress over, upon and across such Lots for the purpose of gaining access to and installing, maintaining, repairing and preserving such Greenbelt Areas.

The Greenbelt Areas (including those portions containing berms) are intended to act as a sound and sight barrier for the benefit of all Owners in the Subdivision. No Owner of any Lot shall be entitled to plant any trees, plants, vegetation or landscaping materials in the Greenbelt Areas or to construct any structures, change or modify the berm or the configuration of the berm or any landscaping thereon in any manner including, without limitation changing the topography of the berm, excavating, moving or disrupting any portion thereof or any landscape materials therein or otherwise adding or configuring any landscaping materials in such area. The duty to maintain, repair and replace the landscaping and bermed portions of the Greenbelt Areas shall be that of the Association.

Section 8.28 Reciprocal Negative Easements. Unless otherwise expressly provided for in this Declaration, no mutual or reciprocal negative easements shall be deemed to arise or be created hereunder with respect to any land situated outside the boundaries of any of the Subdivisions.

ARTICLE IX

ARCHITECTURAL CONTROLS

Section 9.01 Architectural Controls. It is understood and agreed that the purpose of architectural controls is to promote an attractive, harmonious residential development having continuing appeal.

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Accordingly, unless and until the construction plans and specification are submitted to, and approved in writing by the Architectural Control Committee in accordance with the provisions of Section 9.03 below,

- (a) no building, fence, wall or other structure shall be commenced, erected or maintained, and
- (b) no addition, change or alteration therein shall be made, except for interior alterations.

If any Owner fails to comply with this Article, said Owner shall be subject to the Association's remedies set for in Article X and elsewhere in this Declaration and as might be available under applicable law, including (but not limited to) the imposition of fines on the Owner's account, and legal action to compel the Owner's compliance.

Section 9.02 Architectural Control Committee. An Architectural Control Committee (also referred to throughout this Declaration as the "ACC") shall consist of no less than three (3) and no more than five (5) Members, appointed by the Board of Directors.

If the Board chooses not to appoint a separate Architectural Control Committee, then the Board of Directors shall act as the Architectural Control Committee. In such event, all references to the "Architectural Control Committee" in this Declaration shall mean and refer to the Board of Directors.

No member may be elected or may continue to serve on the Architectural Control Committee if not in good standing with the Association as that term is defined in Article IV, Section 4.01 herein.

Section 9.03 Submission of Plans and Plan Approval. All plans, specifications and other related materials shall be filed with the Architectural Control Committee for approval or disapproval. Said construction plans and specifications shall show the nature, kind, shape, height, materials (including samples of exterior building materials upon request), approximate cost of such building or other structure, proposed drainage of surface water, location and grade of all buildings, structures and improvements, as well as utilities and parking areas for the subject Lot.

The Architectural Control Committee shall have sole authority to review, approve or disapprove the plans or specifications and/or any part thereof. The Architectural Control Committee shall have the right to refuse to approve plans or specifications or grading plans, or any portions thereof, which are not suitable or desirable in the sole discretion of the Architectural Control Committee for aesthetic or other reasons. In considering such plans and specifications, the Architectural Control Committee shall have the right to take into consideration compatibility of the proposed building or other structures with the surroundings and the effect of the building or other structure on the view from adjacent or neighboring properties. It is desired that the natural landscape and trees be left in their natural state as much as possible or practical.

A report in writing setting forth the decision of the Architectural Control Committee and the reasons therefor, shall be furnished to the applicant by the Architectural Control Committee within thirty

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(30) days from the date of filing of complete plans, specifications and other materials by the applicant. The Architectural Control Committee will aid and cooperate with prospective builders and Owners and make suggestions based upon its review of preliminary sketches. Prospective builders and Owners are encouraged to submit preliminary sketches for informal comment prior to the submission of architectural drawings and specifications.

If the Architectural Control Committee fails to give written notice of its approval of any final architectural plans and/or specifications submitted pursuant to the requirements of this Article IX within thirty (30) days from the date submitted, such architectural plans and/or specifications shall be deemed disapproved by the Architectural Control Committee. The Architectural Control Committee shall be entitled to charge each applicant a review fee in an amount as determined by the Board of Directors, to reimburse the Association for any actual costs incurred in connection with the review of said applicant's plans, specifications and related materials.

The Architectural Control Committee, and all of its members individually shall not incur any liability whatsoever for approving or failing or refusing to approve all or any part of any submitted plans and/or specifications. The Architectural Control Committee hereby reserves the right to enter into agreements with the grantee (or vendee) of any Lot(s) (without the consent of grantees or vendees of other Lots or adjoining or adjacent property) to deviate from any or all of the restrictions set forth in this Declaration, provided that said grantee or vendee demonstrates that the application of the particular restriction(s) in question would create practical difficulties or hardships for said grantee or vendee. Any such deviation shall be evidenced by a written agreement and no such deviation or agreement shall constitute a waiver of any such restriction as to any other Lot or Owner.

ARTICLE X

REMEDIES

Section 10.01 Nonpayment; Foreclosure of Liens. Each Owner, and every other person who from time to time has any interest in the Subdivision, shall be deemed to have granted to the Association the unqualified right to elect to foreclose the liens which might arise against an Owner's Lot under Article VII or any other provision of this Declaration either by judicial action or by advertisement. The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herein by reference for the purpose of establishing the alternative procedures to be followed in lien foreclosure actions and the rights and obligations of the parties to such actions. Further, each Owner and every other person who from time to time has any interest in the Subdivision, shall be deemed to have authorized and empowered the Association to sell or to cause the Lot to be sold with respect to which the assessment(s), is or are delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the priorities established by applicable law. Each Owner of a Lot in the Subdivision acknowledges that at the time of acquiring title to such Lot, the Owner was notified of the provisions of this Section. The Association,

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acting on behalf of all Owners, may bid in at the foreclosure sale, and acquire, hold, lease, mortgage or convey the Lot.

Notwithstanding the foregoing, a judicial foreclosure action shall not be commenced, nor shall any notice of foreclosure by advertisement be published, until the expiration of ten (10) days after mailing, by first class mail, postage prepaid, addressed to the delinquent Owner(s) at their last known address of a written notice that one or more installments of the annual assessment and/or a portion or all of an additional assessment levied against the pertinent Lot is or are delinquent and that the Association may invoke any of its remedies hereunder if the default is not cured within ten (10) days after the date of mailing. Such written notice shall be accompanied by or in the form of a written Affidavit of an authorized representative of the Association that sets forth:

- (i) the Affiant's capacity to make the Affidavit,
- (ii) the authority for the lien,
- (iii) the amount outstanding (exclusive of interest, costs, attorney fees and future assessments),
- (iv) the legal description of the subject Lot(s), and
- (v) the name(s) of the Owner(s) of record.

The Affidavit may contain other information that the Association considers appropriate including but not limited to the amount of any unpaid interest, costs, attorney fees, future assessments and/or court costs. Such Affidavit shall be recorded in the office of the Washtenaw County Register of Deeds prior to commencement of any foreclosure proceeding, but it need not have been recorded as of the date of mailing to the Owner.

If the delinquency is not cured within the ten (10) day period, the Association may take such remedial action as may be available to it hereunder or under Michigan law. In the event the Association elects to foreclose the lien by advertisement, the Association shall so notify the Owner and shall inform the Owner that they may request a judicial hearing by bringing suit against the Association.

The expenses incurred in collecting unpaid assessments, including interest, costs, unpaid fines, actual attorney's fees (not limited to statutory fees), late charges and advances for taxes or other liens paid by the Association to protect its lien, shall be chargeable to the Owner in default including late charges, if any, and shall be secured by the lien on the Owner's Lot.

The Association also may discontinue the furnishing of any utility or other services to an Owner in default upon seven (7) days' written notice to such Owner of its intention to do so. An Owner in default shall not be entitled to utilize any of the Community Pool Facilities, shall not be entitled to vote at any meeting of the Association, and shall not be entitled to run for election as a director or be appointed an

officer of the Association so long as such default continues; provided, however, this provision shall not operate to deprive any Owner of ingress or egress to and from the Owner's Lot.

Section 10.02 Other Defaults. The Association and any Owner shall have the right to enforce, by proceedings at law or in equity, all covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or any Owner to enforce any covenants or restrictions herein contained shall in no event deemed a waiver thereof or a waiver of any right to enforce the same at any time thereafter.

Any default by a Member shall entitle the Association or another Member or Members to the following relief:

(a) **Legal Action.** Failure to comply with any of the terms and provisions of this Declaration, including any of the rules and regulations promulgated by the Board of Directors of the Association hereunder, shall be grounds for relief, which may include without intending to limit the same, an action to recover sums due for damages, injunctive relief or any combination thereof, and such relief may be sought by the Association or, if appropriate, by an aggrieved Member or Members.

(b) **Recovery of Costs and Legal Fees.** In the event of a default of a Member and/or non-Member resident or guest, the Association shall be entitled to recover from the Member and/or non-Member resident or guest, the pre-litigation costs and attorney fees incurred in obtaining their compliance with the Documents. In any proceeding arising because of an alleged default by any Member, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorney fees, (not limited to statutory fees) as may be determined by the Court, but in no event shall any Member be entitled to recover such attorney fees. The Association, if successful, shall also be entitled to recoup the costs and attorney's fees incurred in defending any claim, counterclaim or other matter from the Member asserting the claim, counterclaim or other matter.

(c) **Assessment of Fines.** The violation of any of the provisions of this Declaration (except the nonpayment of assessments), the Articles of Incorporation, and/or any of rules and regulations promulgated by the Board of Directors, by any Member, in addition to the rights set forth above, shall be grounds for assessment by the Association of a monetary fine for such violation.

(i) **Procedures.** Upon any violation being alleged by the Association, a written notice shall be sent to the offending Member describing the facts constituting the alleged violation and the specific restriction or rule alleged to have been violated. The Notice shall inform the Owner of his right to request a hearing before the Board to offer evidence in defense of the violation, and of the fact that if a hearing is requested it shall be held no later fifteen (15) days from the date of the notice. The Board shall issue a written notice of its determination within ten (10) days after the hearing and, upon finding that a violation has occurred; the Board of Directors may levy a fine for the violation in accordance with the following subsection.

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(ii) **Fine Schedule.** Upon a determination that a material violation of any of the provisions of the Declaration, Articles, or Rules and Regulations has occurred, the following fines may be levied:

- 1st Violation - No fine shall be levied, unless the Board determines that the nature of the violation is such as to be best deterred if a fine is imposed for a first violation, in which event the fine amount shall be \$25.00.
- 2nd Violation - \$50.00 fine
- 3rd Violation - \$75.00 fine
- 4th Violation - \$125.00 fine
- 5th and subsequent Violations - \$500.00 fine (each)

Pursuant to its rule-making powers hereunder, the Board of Directors may adopt a rule increasing the amounts stated in the above fine schedule, in its sole discretion. In the event that the Board establishes a rule amending the fine schedule stated herein, it shall give written notice of the new schedule to all members at least thirty (30) days before the new fines schedule becomes effective

(d) **Removal and Abatement.** The violation of any of the provisions of the Declaration or any rules or regulations adopted by the Board shall also give the Association, or its duly authorized agents, the right, in addition to the rights set forth above, to enter upon the Common Areas, or onto any Lot, where reasonably necessary, and summarily remove and abate, at the expense of the Owner in violation, any structure, thing or condition existing or maintained contrary to the provisions of the Declaration; provided, however, that judicial proceedings shall be instituted before items of construction are altered or demolished pursuant to this sub-section. This provision shall not be construed to authorize entry by the Association into the interior of any Dwelling in the Subdivision.

The Association shall have the right to enter upon any Lot for the purposes of mowing, cutting, weeding or removing any unsightly growth which in the opinion of the Association detracts from the overall attractiveness of the health and welfare of the Subdivision. The Association may enter upon the Lots for the purpose of removing any debris or other trash from the Lot. The Association shall be under no obligation to take such affirmative action. The Association shall provide the Owner seventy-two (72) hours' notice prior to entry on the Lot, except in the event of emergency threatening health or safety, in which case no prior notice shall be necessary. Any costs incurred in such action by the Association shall be chargeable against the Owner and shall constitute a lien against the Lot.

The Association shall have no liability to any Owner arising out of the exercise of its removal and abatement power authorized herein. The Association may assess any and all expenses, attorney's fees and costs incurred arising out of or relating to the removal or abatement in the same manner as assessments under Article VII of this Declaration.

(e) **Cumulative Rights, Remedies, and Privileges.** All rights, remedies and privileges granted to the Association or any Member or Members pursuant to this Declaration shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

ARTICLE XI

FINANCE & RECORDS

Section 11.01 Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors.

Section 11.02 Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls shall conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and

(f) an annual report consisting of at least the following shall be distributed to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement, and (3) a statement of changes in financial position for the fiscal year.

The Association's Board of Directors shall engage a qualified, independent certified public accountant to perform a review or audit of the Association's books of account at least once every two

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years. The membership may also compel the Association to obtain a certified audit or review in any year in which sixty percent (60%) of the membership votes in favor of doing such an audit or review.

Section 11.03 Association's Books and Records.

(a) **Inspection by Members and Mortgagees.** The Declaration, membership register, books of account and minutes of meetings of the Members, the Board, and Committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Subdivision as the Board shall prescribe.

(b) **Rules for Inspection.** The Board shall establish reasonable rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made;
and

(iii) payment of the cost of reproducing copies of documents requested.

Any rules adopted by the Board in regard to an Owner's right to inspect the Association's books and records shall comply with all relevant provisions of the Michigan Nonprofit Corporation Act, including (but not limited to) MCL § 450.2487, as amended.

(c) **Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 11.04 Depositories. The funds of the Association shall be initially deposited in such credit unions, banks or with insured securities brokers or invested in federally insured securities as may be designated by the directors and shall be withdrawn only upon the check or order of such officers, employees or agents as are designated by resolution of the Board of Directors from time to time. The funds may be invested from time to time in accounts or deposit certificates of such banks or credit unions as are insured by an agency of the federal government and may also be invested in interest-bearing obligations of the United States Government or in such other depositories as may be adequately insured in the discretion of the Board of Directors.

ARTICLE XII

**INDEMNIFICATION OF OFFICERS AND DIRECTORS;
DIRECTORS' AND OFFICERS' INSURANCE**

Section 12.01 Indemnification of Directors and Officers. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including actual and reasonable counsel fees and amounts paid in settlement incurred by or imposed upon the director or officer in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, to which the director or officer may be a party or in which they may become involved by reason of their being or having been a director or officer of the Association, whether or not they are a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful or wanton misconduct or gross negligence in the performance of the director's or officer's duties, and except as otherwise prohibited by law; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Directors (with the director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interest of the Association.

The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled. At least ten (10) days prior to payment of any indemnification which it has approved, the Board of Directors shall notify all Owners thereof.

Section 12.02 Directors' and Officers' Insurance. The Association shall provide liability insurance for every director and every officer of the Association for the same purposes provided above in Section 12.01 and in such amounts as may reasonably insure against potential liability arising out of the performance of their respective duties. With prior written consent of the Association, a director or an officer of the Association may waive any liability insurance for such director's or officer's personal benefit.

No director or officer shall collect for the same expense or liability under Section 12.01 above and under this Section 12.02; however, to the extent that the liability insurance provided herein to a director or officer was not waived by such director or officer and is inadequate to pay any expenses or liabilities otherwise properly indemnifiable under the terms hereof, a director or officer shall be reimbursed or indemnified only for such excess amounts under Section 12.01 hereof.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.01 Amendments. The covenants, conditions, restrictions and agreements of this Declaration may be amended at any time by the affirmative vote of those Members who represent at least sixty-six and two-thirds (66 and 2/3%) percent of those Lots in the Subdivision which are eligible to vote.

Notwithstanding the foregoing, any and all such amendments shall be subject to the approval of the Township, if such approval is required.

Section 13.02 Term. The covenants, conditions, restrictions and agreements of this Declaration shall continue in full force and effect and shall run with and bind the land for a period of thirty (30) years from the date this Declaration is recorded and shall thereafter automatically be extended for successive periods of ten (10) years each, unless terminated by the affirmative vote of the Members who represent at least sixty-six and two-thirds (66 2/3%) percent of the Lots in the Subdivision who are eligible to vote.

Notwithstanding anything to the contrary contained in this Declaration, the provisions of Sections 8.15 and 8.27 of this Declaration shall run forever, without right of termination or amendment unless modified or deleted pursuant to an amendment authorized by Section 13.01.

Section 13.03 Enforcement. The Association and any Owner shall have the right to enforce, by proceedings at law or in equity, all covenants, conditions, restriction, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration against any person violating or attempting to violate any provision hereof, to prevent or abate such violations, to compel compliance with the terms hereof, to enter upon any portion of the Property to correct any condition or remove any building, structure or improvement erected, installed or maintained in violation of the terms hereof at the Owners expense, and to recover damages, including attorneys' fees and costs for such violation. Any such entry shall not constitute a trespass. Failure by the Association or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver thereof or a waiver of any right to enforce the same at any time thereafter.

Section 13.04 Insurance Proceeds. All proceeds of any insurance maintained with respect to any assets of the Association and the Common Areas and all proceeds of any condemnation proceedings or sales in lieu of condemnation relating to the assets of the Association or the Common Areas shall be paid to the Association and shall be the property of the Association and not of its Members or any other persons or entities.

Section 13.05 Severability. The invalidation of anyone or more of the covenants, conditions, restrictions and agreements of this Declaration by judgment or court order, shall in no way affect the validity of any of the other provisions of this Declaration, and the same shall remain in full force and effect.

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Section 13.06 Notices. Each Owner shall file the correct mailing address of such Owner with the Association and shall promptly notify the Association in writing of any subsequent change of address. The Association shall maintain a file of such addresses. Unless otherwise provided in this Declaration, all notices, demands, bills, statements, or other communications under this Declaration shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

- (a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member; or
- (b) if to the Association, the Board of Directors, or the managing agent; at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

Notices may also be given via electronic transmission to the fullest extent permitted by the Michigan Nonprofit Corporation Act. The term “electronic transmission” shall have the same meaning as is set forth in the Nonprofit Corporation Act.

Section 13.07 Number and Gender. As used in this Declaration, any gender shall include any other gender, the plural shall include the singular and the singular shall include the plural, whenever appropriate.

Section 13.08 Execution of Additional Documents. Each of the Owners, at no expense to itself, hereby agrees, at the request of the Association, to perform such further acts and execute all such further documents as may be required or desirable in the sole discretion of the Association to carry out the purposes of this Declaration.

Section 13.09 Conflicts. If there are conflicts between the provisions of Michigan law, the Articles of Incorporation, and this Declaration, the provisions of Michigan law, this Declaration, and the Articles of Incorporation (in that order) shall prevail.

Section 13.10 Munger Road – Special Assessment District and June 26, 2001 Amended Road Improvement Agreement. Developer executed a petition for the paving of Munger Road, which is East of and adjacent to the Property. Developer then entered into an agreement dated June 26, 2001 with Pittsfield Township and the Board of County Road Commissioners of the County of Washtenaw (the “Amended Road Improvement Agreement”) for the paving of that portion of Munger Road that is adjacent to any portion of the Property, and to thereby subject the Property and all Owners to a special assessment agreement (whether by consent judgment, consent agreement, petition or otherwise) provided that all future Owners of Lots within the Property shall pay a proportionate share of the cost of the paving of Munger Road as set forth above. The Amended Road Improvement Agreement was incorporated in the terms of an Amended Declaratory Judgment (“Judgment”), which was recorded with the Washtenaw County Register of Deeds on September 28, 2001, in Liber 4054, Pages 736. The Amended Road Improvement Agreement and Judgment run with the Property and

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are binding on all persons acquiring an interest in any Lot in the Subdivision, and all such persons acquiring any interest in the Lot, including, without limitation, all Owners and any lender with respect thereto, who shall be deemed irrevocably to have appointed Developer and its successors as agent and attorney-in-fact to make such agreements for the paving of Munger Road, to enter into such agreements, petitions, consent judgments or other arrangements as are required by Pittsfield Township, and to act on behalf of Owners and their lenders in any statutory or special assessment proceedings with respect to the paving of Munger Road.

Furthermore, Developer executed an agreement or petition with Pittsfield Township for public lighting improvements benefitting the Property. The agreement or petition provided that the Developer and all future Owners of Lots within the Property shall pay a proportionate share of the cost of constructing, maintaining, repairing and replacing a street lighting system in the public rights-of-way in the Property. The Developer's agreement with Pittsfield Township regarding the street lighting system runs with the Property and is binding on all persons acquiring any interest in the Property, including without limitation, all Owners and their lenders with respect thereto, who shall be deemed irrevocably to have appointed Developer and its successors as agent and attorney-in-fact to make such dedication and to act on behalf of all Owners and their lenders in any statutory or special assessment proceedings with respect to a street lighting system serving the Property.

Section 13.11 Appointment of Association as Attorney in Fact. All Owners, their successors and assigns hereby irrevocably appoint the Association and its Board of Directors as their agent and attorney in fact for the purpose of executing any document necessary to allow Association to do anything which the Association is entitled to do under the terms of this Declaration.

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The Village of Hickory Pointe Homeowners Association, Inc., a Michigan nonprofit corporation

By: _____

Its: President

STATE OF MICHIGAN)
) ss.
COUNTY OF WASHTENAW)

The foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions was acknowledged before me, a notary public on _____ day of _____, 2021, by _____-, known to me to be the President of The Village of Hickory Pointe Homeowners Association, Inc., a Michigan nonprofit corporation, and that she has executed this Amended and Restated Declaration of Covenants, Conditions and Restrictions as her own free act and deed on behalf of the corporation.

Notary Public

County, Michigan
My commission expires: _____
Acting in the County of _____

PREPARED BY and WHEN RECORDED RETURN TO:

Gregory J. Fioritto (P61893)
Zelmanski, Danner, & Fioritto, PLLC
44670 Ann Arbor Road, Ste. 170
Plymouth, MI 48170
(734) 459-0062

EXHIBIT A

Part of the Northeast ¼ of section 24, Town 3 South, Range 6 East, Pittsfield Township, Washtenaw County, Michigan described as:

Beginning at a point on the southerly right-of-way line of Michigan Avenue (100 feet wide) distant S. 86°47'00" E. 638.64 feet along the North line of said Section 24 from the North ¼ corner of said Section 24; thence continuing along said North section line S. 86°47'00" E. 630.45 feet; thence S. 03°13'00" W. 209.00 feet; thence S. 86°47'00" E. 62.37 feet; thence S. 00°46'53" E. 786.82 feet; thence S. 47°39'55" W. 192.77 feet; thence N. 46°20'04" W. 29.58 feet; thence N. 53°08'20" W. 95.35 feet; thence N. 66°29'37" W. 95.35 feet; thence N. 80°15'52" W. 95.27 feet; thence N. 01°16'02" E. 12.07 feet; thence N.88°43'58" W. 930.25 feet to a point on the centerline of Crane Road; thence N. 01°16'02" E. 561.01 feet along said centerline of Crane Road to the intersection of said centerline with the southerly right-of-way line of Michigan Avenue (100 feet wide); thence the following two courses along said southerly right-of-way line of Michigan Avenue; 521.45 feet along the arc of a curve to the right having a radius of 4226.49 feet, a central angle of 07°04'08", and a long chord bearing N. 54°42'56" E. 521.12 feet; and N. 58°15'00" E. 261.94 feet to the point of beginning. Containing 28.02 acres of land, more or less.

Commencing at the Northeast corner of said Section 24, proceeding thence N. 86°47'00" W. 60.00 feet along the North line of Section 24 to a point on the Westerly right-of-way line of Munger Road (60 foot wide « R.O.W.), said point also being the Point of Beginning; thence S. 01°24'51" W., 851.40 feet along said Westerly right-of-way line; thence N. 86°47'00" W., 199.92 feet; thence N. 79°22'18" W., 210.71 feet; thence 20.40 feet along the arc of a curve to the left, having a radius of 583.00 feet, a central angle of 02°00'17" and a long chord bearing S. 11°06'01" W., 20.40 feet; thence N. 86°47'00" W., 844.23 feet to a point on the East line of Hickory Pointe Subdivision No.1; thence along said Easterly subdivision line the following 3 courses and distances (1) N. 00°46'53" W., 636.55 feet (2) N. 86°47'00" W., 62.37 feet (3) N. 03°13'03" E., 209.00 feet to a point on the North line of said Section 24, said point also being the Northeast corner of said Hickory Pointe Subdivision No.1; and thence S. 86°47'00" E., 1335.87 feet along said North section line to the Point of Beginning, Containing 24.91 acres of land, more or less.

Commencing at the North ¼ corner of said Section 24; thence S. 01°16'02"W., 1035.81 feet along the North-South ¼ line of Section 24, said line also being the centerline of Crane Road; thence S. 88°43'58"E., 43.00 feet to a point on the easterly right-of-way line of said Crane Road, said point also being the Southwest corner of "Hickory Pointe Subdivision No. 1" as recorded in Liber 31 of Plats, Pages 38-44, Washtenaw County Records, and also being the point of beginning; thence the following seven courses along the southerly point of said "Hickory Pointe Subdivision No. 1;"

(1) S.88°43'58"E., 887.25 feet; (2) S.01°16'02"W., 12.07 feet; (3) S.80°15'52"E., 95.27 feet; (4) S.66°29'37"E., 95.35 feet; (5) S.53°08'20"E., 95.35 feet; (6) S.46°20'04"E., 29.58 feet; and (7) N.47°39'55"E., 192.77 feet; thence S.02°00'37"E., 627.27 feet; thence 18.87 feet along the curve of an arc to the right, having a radius of 217.00 feet, a central angle of 04°58'55" and a long chord bearing S.83°55'24"W., 18.86 feet; thence S.02°57'46"W., 213.25 feet; thence N.87°09'58"W., 1139.89 feet; thence N. 01°46'58"E., 7.00 feet; thence N.87°09'58"W., 180.21 feet to a point on the East right-of-way line of said Crane road; and thence N.01°16'02"E., 803.40 feet to the point of beginning. Containing 67

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lots numbered 127 through 193 inclusive, one out lot for future road, and two private parks, containing 24.60 acres of land, more or less.

Commencing at the Northeast corner of Section 24, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan; N86°47'00"W 60.00 feet along the North line of Section 24 to a point on the Westerly Right of Way line of Munger Road (Variable Width), said point also being the Northeast corner of Hickory Pointe Subdivision No. 2, as recorded in Liber 32 of Plats, Page 10-18, Washtenaw County Records, Washtenaw County, Michigan; thence S.01°24'51"W 394.20 feet along said right-of-way line for a place of beginning; thence continuing S.01°24'51"W 1431.41 feet; thence N.87°09'58"W 1236.67 feet to a point on the East line of Hickory Pointe Subdivision No. 3, as recorded in Liber XX of Plats, Page XX-XX, Washtenaw County Records, Washtenaw County, Michigan, said point also being the Southeast corner of said subdivision; thence continuing along the East line of said Hickory Point No. 3 the next three courses, thence N.02°57'46"E 213.25 feet; thence 18.87 feet along the arc of a 217.00-foot radius non-tangential circular curve to the left, with a central angle of 04°58'55", having a chord which bears N.83°55'24"E 18.86 feet; thence N.02°00'37"W 627.27 feet; thence N.00°46'53"W 130.31 feet along Hickory Pointe Subdivision No. 1, as recorded in Liber 31 of Plats, Page 38-44, Washtenaw County Records, Washtenaw County, Michigan; thence along said Hickory Pointe No. 2 the following six courses, S.89°02'39"E 379.67 feet; S.87°09'58"E 463.25 feet; thence 22.25 feet along the arc of a 583.00-foot radius circular curve to the right with a chord which bears N.11°06'01"E 22.25 feet; thence S.79°22'18"E 208.90 feet; thence N.14°49'11"E 445.20 feet; thence N.05°35'16"E 15.71 feet; thence S.88°35'09"E 97.14 feet to the Place of Beginning, being part of the Northeast ¼ of said Section 24, containing 29.37 acres of land, more or less, being subject to easements and restrictions of record, if any.

EXHIBIT C

STORMWATER MANAGEMENT SYSTEM MAINTENANCE PLAN

1. RESPONSIBILITY FOR MAINTENANCE

- a. During construction it is the developer's responsibility to perform the maintenance.
- b. Following construction, it will be the responsibility of the Hickory Pointe Homeowners Association (HPHA) to perform the maintenance.
- c. The Building and Use Restrictions will specify that routine maintenance of the stormwater facilities must be completed within 30 days of receipt of written notification that action is required, unless other acceptable arrangements are made. Should the HPHA fail to act within the agreed time frame, the Washtenaw County Drain Commission (WCDC) may perform the needed maintenance and assess the costs against the HPHA.

2. SOURCE OF FINANCING

The Hickory Pointe Homeowners Association (HPHA) will assess its members (all owners of lots in the subdivision) to pay for all maintenance activities on a continuing basis.

3. MAINTENANCE TASKS AND SCHEDULE

- a. See the charts on the next two pages: The first describes maintenance tasks during construction to be performed by the developer, the second describes maintenance tasks by Hickory Pointe Homeowners Association.
- b. Before turning any portion of the project over to HPHA, the developer will have the stormwater management system inspected by an engineer to verify the condition of the detention and filtration areas and make recommendations for any necessary sediment removal and/or repairs.