

## DECLARATION of GENERAL COVENANTS, CONDITIONS AND RESTRICTIONS

for

### HUNTER' S RUN PLANNED UNIT DEVELOPMENT

DONALD F. WATTS and JOYCE I. WATTS, and WATTS CONSTRUCTION CO., INC., a Michigan Corporation, are proprietors of land located in the Township of Comstock, County of Kalamazoo, State of Michigan, more particularly described in the annexed Schedule A. Proprietors are hereinafter collectively referred to as Declarant ("Declarant").

Declarant declares that all of the properties are subject to the following easements, restrictions, covenants and conditions which are imposed for the purpose of protecting its value and desirability and which shall run with the Properties and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner of any part.

#### PURPOSE OF PLANNED UNIT DEVELOPMENT

The purpose of the Planned Unit Development and this Declaration is to provide for the residents a community that will, create a higher quality of living by preserving as near as may be possible in an urban setting the amenities of a natural environment, to give consideration to the preservation of the natural features of the environment, including airy soil, water, topography, natural vegetation, and all wild life. In general, this Declaration shall, be construed to encourage the leaving of the land in its natural state, except as otherwise provided or permitted, and to give the Board of Directors of the Association the authority to pass reasonable regulations concerning aesthetic considerations, including preservation of scenic views, prevention of unsightliness, fostering of quietness, and the like. The right, but not the obligation, of the Board to restore and maintain the unpaved portions of street rights—of—way and the Common Areas in their natural condition is hereby declared and each grantee, by acceptance of a conveyance of any portion of the property, shall be deemed to have agreed to the same on behalf of the grantee, the grantee's successors, heirs, and assigns.

#### EFFECT OF FINAL DEVELOPMENT PLAN FILED WITH THE TOWNSHIP OF COMSTOCK

The final development Plan of the Planned Unit Development which is on record in the office of the Township Clerk of the Township of Comstock, has the effect and only the effect prescribed by the ordinances of the Township of Comstock. The Plan constitutes part of the public controls imposed by the Township upon developers, owners, residents and users of the Planned Unit Development and does not create, and is not intended to create any private property or contract rights in the owners and residents of the Planned Unit Development, except as such rights may be created expressly by separate contracts, deeds and other documents, including this Declaration. A Planned Unit Development confers maximum benefits upon the residents when all of its elements are planned and developed in appropriate relationship to each other. The Plan on file in the office of the Township of Comstock describes a plan of development which the Declarant believes will provide maximum benefits to the residents, owners and the public. During an extended development program, however, various factors can intervene which may hinder the effectiveness of the Plan and which may threaten the benefits to be derived by the residents, owners and the public unless the plan can be modified as prescribed by the applicable

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ordinances. Accordingly although this Declaration is applicable to the entire area of the planned unit development, it confines itself to the establishment of a community organization and the definition of the rights and obligations of each owner in and to the organization and its facilities. Some basic limitations upon the use of the land are also included but such Plan continue to remain subject to modification by the proper Township authorities in accordance with the procedures set forth in the ordinance of the township. The Declarant believes, however, that additional protection in the nature of private property and contract rights should be accorded to the residents within those areas of the Planned Unit Development which constitute their respective immediate neighborhoods and which are being developed currently. Other protective covenants which will be applicable to the property therein respectively described may be recorded before the conveyance of that property.

Accordingly, it is hereby declared that the Plan on file in the office of the Township clerk does not create and shall not be construed to create any private property or contract rights in any resident or owner of property in the Planned Unit Development.

#### MAINTENANCE OF COMMON AREAS

Declarant covenants to maintain the Common Areas, including paved streets, in accordance with the purposes stated in this Declaration until their conveyance to the Association. The Association, by acceptance of a conveyance, covenants to maintain the Common Areas, including paved streets, in accordance with the purposes stated in this Declaration.

### ARTICLE I

#### Definitions

##### Section 1.

“ASSOCIATION” shall mean and refer to “HUNTER’S RUN ASSOCIATION, INC.”, a Michigan non–prof it Corporation, its successors and assigns.

##### Section 2.

“OWNER” shall, except as provided below, mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any residential lot or Dwelling Unit which is in the Property, except that one holding an interest merely as security for the performance of an obligation shall not be deemed an Owner and, except, that a contract purchaser in possession shall be deemed an Owner. Subject to the Bylaws of the Association the term “Owner” shall not include a record Owner whose sole purpose in holding title is for the purpose of constructing improvements pursuant to written contract. The other party to the construction contract shall receive the benefits of and be subject to the obligations of an “Owner A’

##### Section 3.

“PROPERTIES” shall mean and refer to the property described in the annexed Schedule A and to other real property which may be added as provided in Article VI, Section 3. ‘PROPERTY’ shall mean a particular parcel within the Properties.

##### Section 4.

“COMMON AREAS” shall mean all the real Property, including streets, owned by the

Association for the common use and enjoyment of the owners. No area shown or indicated on any plan or plat of the property shall be considered as a Common Area unless and until it has been conveyed to the Association for the common use and enjoyment of the Owners.

Section 5.

“PLAN” shall mean the final development plan of the Planned Unit Development on file in the office of the Township Clerk of the Township of Comstock as it may be from time to time amended.

Section 6.

‘DWELLING UNIT’ shall mean an improved space designed for and ready for occupancy by an individual or single family for independent dwelling purposes, whether located in a detached, row, semi-detached or multiple-family structure.

Section 7.

“OWNER OCCUPIED DWELLING UNIT” shall mean a Dwelling Unit which is occupied as the Owners residence even though it may be rented by the Owner during a temporary absence.

Section 8.

“LOT’ shall mean any numbered lot on a recorded plat.

ARTICLE II

Property Rights

Section 1.

OWNERS’ EASEMENTS OF ENJOYMENT OF COMMON AREAS

Every Owner shall have a right and easement of enjoyment in and to the Common Areas, which right and easement shall be appurtenant to that ownership, subject to the following:

- (a) The right of the Association to make and enforce reasonable rules and regulations to carry out the terms of this Declaration and to fulfill its purposes.
- (b) The right of the Association to fix and charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas.
- (c) The right of the Association to suspend voting rights and the rights of members of the Association to use any of the Common Areas or to any facility in them for any period, not to exceed (60) days for any infraction of its published rules and regulations or the violation of any of the covenants, conditions and restrictions contained in this Declaration, or in covenants, conditions and restrictions relating to particular plats within the Plan, except that suspension for any continuing infraction or violation may continue for the duration of that infraction or violation and provided, however, that the right of an Owner to access to and use of streets shall be absolute.

- (d) The right of the Association to dedicate or transfer all or any part of the Common Areas, provided that any transfer shall be approved at a meeting duly called for that purpose by affirmative vote of two-thirds (2/3) of all the outstanding votes held by Owners in the Association and by affirmative vote of two-thirds (2/3) of all the outstanding votes allowable for Owner-Occupied Dwelling Units.
- (e) The right of the Association to construct, maintain and improve recreation and other facilities on the Common Areas for the benefit of the Owners and to permit the use of them by other persons as provided for in this Declaration.
- (f) The right of the Association to mortgage the Common Areas or any part with the affirmative vote of two-thirds (2/3) of the Owners subject to the rights of any first mortgagee.
- (g) The right of the Association to convey the Common Areas or any part with the affirmative vote of two-thirds (2/3) of the Owners and subject to the rights of any first mortgagee.
- (h) The right of the Association to grant to the Township of Comstock the jurisdiction to impose the Uniform Traffic Code of the State of Michigan on the streets within the Planned Unit Development.

## Section 2.

### DELEGATION OF USE

Any Owner may delegate, in accordance with the Bylaws, the Owner's rights of enjoyment of the Common Areas and facilities to members of the Owner's family, and to Owner's tenants and guests.

## Section 3.

### STREETS

The Declarant intends that all streets, medians, islands and verges will be conveyed to the Association after being completed in conformance with the Plan approved by the Township of Comstock and will not be a part of the Kalamazoo County road system. The Association will be responsible for all maintenance, including, but not limited to, snow removal, sweeping, road-side maintenance. The Association is given the right, but not the obligation, to convey to the Kalamazoo County Road Commission streets other than cul de sacs, subject to the affirmative vote of two-third (2/3) of the Owners and subject to the rights of any first mortgagee.

## Section 4.

### TITLE TO THE COMMON AREAS

Declarant covenants for itself, its successors and assigns, that it will convey to the Association fee simple title to the Common Areas from time to time in accordance with the Plan. Until conveyed they will be maintained by Declarant at its own expense.

Section 5.

RIGHT TO DEDICATE STREETS

Declarant reserves the right to dedicate Common Areas designated as street right of ways to governmental authorities. This right does not apply to other Common Areas.

ARTICLE III

Membership in Hunter's Run Association; Voting Rights Section 1.

Section 1.

MEMBERSHIP

All Owners shall be members of the Association with all privileges and obligations of membership. Enjoyment of Common Areas and facilities may be extended to others on such terms as may be provided in the Bylaws. Fees for that enjoyment shall not be less than fees paid by members for use of the facilities to which the privileges are extended.

Section 2.

VOTING RIGHTS

Members of the Association shall be entitled to one vote for each lot or Dwelling Unit owned by a member. If more than one person holds an interest in any lot or Dwelling Unit, the vote shall, subject to the Association bylaws, be exercised as the Owners themselves determine, but in no event shall more than one vote be cast in respect to any lot or Dwelling Unit.

ARTICLE IV

Covenant for Maintenance Assessments

Section 1.

CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS

The Declarant, for each Lot or Dwelling Unit owned within the Properties, hereby covenants, and each Owner of any Lot or Dwelling Unit by acceptance of a deed, whether or not it shall be so expressed in the deed, is deemed to covenant and agree to pay the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, assessments to be established and collected as provided in this Declaration. The annual and special assessments, together with interest, costs and reasonable attorneys fees shall, on the due date of the assessment, be a continuing lien upon the property against which each assessment is made. Each assessment, together with interest, costs and reasonable and actual attorneys' fees, shall also be the personal obligation of the person who is the owner of the property on the due date of the assessment. The personal obligation for delinquent assessments shall not pass to successor owners unless expressly assumed by them. A conveyance shall not relieve the Owner of liability.

## Section 2.

### PURPOSE OF ASSESSMENTS

The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the properties, including, but not limited to the improvement and maintenance of the Common Areas, including streets, and the recreation facilities on them, the payment of taxes and assessments levied against property owned by the Association, and the expenses of the Association, and, in general, the carrying out the purposes set forth in or permitted by the Articles of Incorporation of the Association and this Declaration. The Association may provide for reasonable reserves for contingencies, replacements and improvements, provided the amount placed in reserve in any fiscal year shall not exceed 10% of the annual assessment, except upon compliance with Section 4 below. The Association may, but is not required to maintain the unpaved portions of land within street rights-of-way in their natural condition as stated in Article V, Section 3.

## Section 3.

### BASIC AND MAXIMUM ANNUAL ASSESSMENT BY ASSOCIATION

The following shall be assessable:

- (a) Except as otherwise provided in this Section 3, the assessment shall be made against each Lot. A divided lot shall be assessed to the Owner of the larger portion unless, in an agreement acceptable to the Board, the parties may agree otherwise. A Lot shall not be assessable so long as the right to construct a dwelling unit on the Lot is precluded by deed restrictions enforceable by and acceptable to the Association.
- (b) In the case of multiple family dwelling units the assessment shall be made against each dwelling unit and, as to condominiums, its appurtenant share of the common elements.
- (c) The total annual assessment of the Association shall be levied equally against all of the assessable lots and Dwelling Units, as provided in (a) and (b) above, subject to the following:
  - (1) No Lot or Dwelling Unit shall be assessable until January 1, 1990.
  - (2) No Lot or Dwelling Unit shall be assessed in excess of 5% of the total annual assessment.

## Section 4.

### SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS

In addition to the annual assessments authorized above, the Association may levy, in any assessment year beginning January 1, 1999, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement upon the Common Area, including fixtures and personal property relating to it, or the cost of establishing or adding to a reserve for it, provided, that any special assessment shall have the assent of 60% of the Owner-Occupants voting in person or by proxy at a meeting duly called for that purpose, each Owner-Occupant having one vote, and of 60% of all members voting in person or by proxy.

Section 5.

NOTICE AND QUORUM FOR SPECIAL ASSESSMENTS UNDER SECTION 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 4, above, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first meeting called the presence of members or of proxies entitled to cast (50%) percent of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6.

UNIFORM RATE OF ASSESSMENT

Both annual and special assessments shall be fixed at a uniform rate for all assessable Lots or Dwelling Units, except as provided in Section 3 of this Article.

Section 7.

ASSESSMENTS:DATE OF COMMENCEMENT AND DUE DATES

The annual assessments provided for shall commence January 1, 1999. The Board shall fix the total annual assessment for the following year and the amount of assessment against each Lot and Dwelling Unit on or before November 15 each year. Written notice of annual assessment shall be sent to every owner by December 1 each year. Where there is more than one Owner of a Property, only one notice, subject to reasonable regulation by the Board need be sent.. The due date for payment shall be January 1 following or as established by the Board and shall be stated in the notice. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not all assessments imposed on Property described in the certificate have been paid and setting forth the amounts, if any, of interest charges and their due dates. Failure of the Board to comply with any procedural requirement shall not invalidate any assessment.

Section 8.

EFFECT OF NON-PAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 7% per annum or at such uniform rate as shall be established by the Board at the time of the fixing of the assessment. The Association may bring an action against a delinquent Owner or other person personally obligated to pay the assessment and may foreclose the lien established by the terms of this Declaration. No owner may waive or otherwise escape liability for the assessments provided for herein by non—use of the Common Area, by abandonment of the owner's lot or dwelling unit, or by conveyance of the property.

Section 9.

SUBORDINATION OF THE LIEN TO MORTGAGES

The lien of the assessments provided for herein shall be subordinate to the lien of any first

mortgagee. Sale or transfer of any Lot or Dwelling Unit shall not affect the assessment lien, except that the sale or transfer of any Lot or Dwelling Unit pursuant to mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of the assessments as to payments which became due before the sale or transfer. No sale or transfer shall relieve the Owner from personal liability for delinquent assessments or the Lot or Dwelling Unit from liability for any assessment becoming due or from the lien arising from the assessment.

## ARTICLE V

### Land Planning and Building Committee

#### Section 1.

#### ARCHITECTURAL CONTROL

Declarant reserves to Watts Construction Company, Inc. and its nominees the rights of the Architectural Committee with regard to construction of residences and other Dwelling Units until these rights are relinquished by him. Except as to this reservation the Board or Architectural Committee ("Committee") established by the Board shall exercise the authority to carry out the obligations imposed on it by any covenants or restrictive agreements imposed on any Properties as to harmony with those provisions and as to harmony with the stated purposes of this Declaration. The Committee's authority as to a residence and other dwelling unit shall commence with the completion thereof pursuant to plans and specifications approved by the Company.

#### Section 2.

#### RUBBISH

The Board is empowered to prescribe reasonable rules and regulations for garbage cans and other waste containers, their location and concealment, and for waste disposal, including prohibition of outdoor burning. The Board may, on approval by a majority vote of the members present in person or by proxy at a meeting called for that purpose, enter into contracts on an annual basis for trash and garbage service and may add that cost to the annual assessment or may cause it to be billed directly to the respective Owners. Such contracts may be renewed annually without approval of the members, but future authority may be revoked by similar action of the members.

#### Section 3.

#### NATURAL GROWTH

The natural growth on any Property shall not be deemed a nuisance, but the Board may pass reasonable regulations for its control for the health, safety and welfare of the Owners and occupants of the Properties.

Section 4.

NOISE

It being one of the purposes of this Declaration to foster an environment free of unnecessary annoyances, discomforts and health hazards of urban living, the Board is hereby given the power to make reasonable regulations for the control of noise.

Section 5.

REMEDIES FOR VIOLATIONS: INVALIDATIONS

For a violation or breach of any of these reservations, covenants and restrictions, the Association and any owner or either of them severally shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent or obtain damages for the violation or breach of any provision hereof. The failure of the Association or of any owner to enforce or the failure to enforce promptly any of the reservations, covenants or restrictions shall not bar other or subsequent enforcement. The invalidation of any one or more by any court of competent jurisdiction shall not affect any other reservation, covenant or restriction but shall remain in full force and effect.

ARTICLE VI

General Provisions

Section 1.

ACTION BY ASSOCIATION

Except where otherwise provided in this Declaration, when action is required of or permitted by the Association it shall be deemed to refer to the action of the Board.

The Board may close the books of the Association against transfer of membership for a stated period not to exceed forty (40) days before a meeting.

Section 2.

DURATION:AMENDMENT

The covenants and restrictions of this Declaration shall run with and bind the land but may be amended by affirmative vote of 75% of all the outstanding votes held by the members of the Association and by affirmative vote of 75% of all the outstanding votes allowable for Owner-Occupied Dwelling Units. The certificate of an officer of the Association, attested by a member of the Board, and bearing the seal of the Association may be recorded as conclusive proof of the action taken.

Section 3.

ADDITIONAL PROPERTY

- (a) Residential property and Common Areas not now a part of HUNTER'S RUN Planned Unit Development may be added to the property by the Declarant from time to time within 15 years of the date of this Declaration, provided that if any such land is contiguous to HUNTER'S RUN, that Common Areas shall constitute at least 20% of such additional Property and that any addition shall be approved by the proper authorities of the Township of Comstock pursuant to the ordinances of the Township.

Executed at Kalamazoo, Michigan \_\_\_\_\_, 1999

Witnesses as to Donald F. Watts and  
Joyce I. Watts and as to Watts  
Construction Company, Inc.

\_\_\_\_\_  
DONALD F. WATTS

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
JOYCE I. WATTS

\_\_\_\_\_  
WATTS CONSTRUCTION COMPANY, INC.

By: \_\_\_\_\_  
DONALD F. WATTS, President

By: \_\_\_\_\_  
JOYCE I. WATTS, Secretary

STATE OF MICHIGAN            )  
  ) SS  
COUNTY OF KALAMAZOO    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 1999, by DONALD F. WATTS and JOYCE I. WATTS.

\_\_\_\_\_  
Notary Public, Kalamazoo County, Michigan  
My commission expires: \_\_\_\_\_

STATE OF MICHIGAN            )  
  ) SS  
COUNTY OF KALAMAZOO    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 1999, by DONALD F. WATTS and JOYCE I. WATTS, the  
President and Secretary respectively of WATTS CONSTRUCTION COMPANY, INC. on behalf  
of the corporation.

\_\_\_\_\_  
Notary Public, Kalamazoo County, Michigan  
My commission expires: \_\_\_\_\_

Prepared by:     Edward P. Thompson  
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