

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
AUTUMN PARK SUBDIVISION NO. 1  
AUTUMN PARK SUBDIVISION NO. 2  
AUTUMN PARK SUBDIVISION NO. 3**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions is made this \_\_\_\_ day of June, 2001, by TRINITY/BOSCO PARTNERSHIP, a Michigan co-partnership, whose address is 45000 River Ridge Drive, Clinton Township, Michigan 48038 (sometimes referred to as "Developer") and JOHN RICHARDS DEVELOPMENT CORPORATION, a Michigan corporation, whose address is 31700 Telegraph Road, Suite 120, Birmingham, Michigan 48025 (sometimes referred to as "Richards"), and each OWNER (as hereinafter defined) whose name and signature appears on the signature page hereof.

**RECITALS :**

A. Developer is a Michigan co-partnership engaged in the development of residential subdivisions.

B. Developer has previously developed part of a parcel of land it owned (or continues to own, as the case may be) in the City of Novi, Oakland County, Michigan as "Autumn Park Subdivision No. 1", according to the plat thereof recorded in Liber 239, Plats, Pages 34-36, both inclusive, Oakland County Records, which is Phase I of a phased residential development known as "Autumn Park".

C. Developer has previously developed another part of the land it owned (or may continue to own, as the case may be) as "Autumn Park Subdivision No. 2", according to the plat thereof recorded in Liber 242, Plats, Pages 5, 6, 7, 8 and 9, Oakland County Records, which is Phase II of said "Autumn Park".

D. Developer owns additional real property located in the City of Novi, Oakland County, Michigan, which is described on attached Exhibit A made a part hereof, which is contiguous to or otherwise in the vicinity of Autumn Park Subdivisions No. 1 and 2, which it has developed as "Autumn Park Subdivision No. 3", according to the plat thereof recorded in Liber 266, Plats, Pages 1-7, both inclusive, Oakland County Records, which is Phase III of said "Autumn Park".

E. Developer previously recorded on April 27, 1995, in Liber 15406, Page 790, Oakland County Records, a Declaration entitled "Autumn Park Subdivision No. 1

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Declaration of Covenants, Conditions, and Restrictions" (the "Phase I Declaration") in order to promote the proper use and appropriate development and improvement of the property incorporated into Phase I; guard against the construction of buildings with improper or unsuitable materials; promote adequate and reasonable development of said property; encourage 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. Notwithstanding that the Phase I Declaration on its face contemplated that "Autumn Park Subdivision No. 1" would be the first phase of a multi-phase residential development of the "Property", as described on Exhibit "A" thereto, as the result of an error in the preparation of the aforesaid Exhibit "A", it legally described only the portion of the Property which the Developer was then developing as "Autumn Park Subdivision No. 1".

F. Developer previously filed with the Michigan Department of Commerce on March 22, 1999, Articles of Incorporation for "Autumn Park Homeowners Association, a Michigan non-profit corporation", being the "Association" described in and contemplated by the Phase I Declaration. The Developer subsequently has caused the Autumn Park Homeowners Association to adopt Bylaws in accordance with the requirements of the Michigan Non-Profit Corporation Act, being Act No. 162 of the Public Acts of 1982, as amended, and consistent with the Phase I Declaration.

G. At all times subsequent to the recordation of the Phase I Declaration, the Developer and the Owners who have joined in or approved this Declaration have intended and believed that the Phase I Declaration by its terms was, or upon its appropriate amendment would be, binding upon and of benefit to the portions of the Property which the Developer has developed as "Autumn Park" including, without limitation, the Lots and Common Areas within Phase I, Phase II and Phase III hereinafter described.

H. The Phase I Declaration provided in Article VIII, in pertinent parts, that:

"... Developer may at any time, without the consent of any Owner, mortgagee or any person who now or hereafter has any interest in and to the Property, amend this Declaration in order to correct survey or other errors ..."

AND

"... the covenants, restrictions, and agreements of the Declaration, as they relate to any Phase for which a final plat has been recorded, may be amended at any time following the date on which a Lot has been conveyed by the Developer to a person

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or entity other than a builder which owns or holds Lots for resale to customers in the ordinary course of business by a written instrument signed by: (i) the Owners of seventy-five (75%) of the total Lots contained within all Phases for which a final plat of subdivision has been recorded; and (ii) Developer, in the event Developer then continues to own any Lots or any portion of the Property. Notwithstanding the foregoing, any and all such amendments shall be subject to the approval of the City of Novi, if such approval is required."

I. Developer previously recorded on May 16, 1995, in Liber 15406, Pages 805-808, both inclusive, Oakland County Records, a Declaration entitled "Autumn Park Subdivision No. 1 Supplemental Declaration of Covenants and Restrictions" (the "Phase I Supplemental Declaration") in order to impose upon Lots within Phase I certain additional restrictions, including, *inter alia*, with respect to the use of on-site wells as a source of potable water during the continuation of a moratorium upon new taps to the City of Novi public water system then in effect.

J. Developer previously recorded on October 27, 1995, in Liber 15779, Pages 382-386, both inclusive, Oakland County Records, a Declaration entitled "Autumn Park Subdivision No. 2 Supplemental Declaration of Covenants and Restrictions" (the "Phase 2 Supplemental Declaration") to impose upon Phase II Lots restrictions upon, *inter alia*, the use of on-site wells as a source of potable water during the continuation of a moratorium upon new taps to the City of Novi public water system then in effect.

K. Developer previously recorded on March 1, 1999, in Liber 19615, Pages 878-881, a Declaration entitled "Autumn Park Subdivision No. 3 Declaration of Covenants, Conditions, and Restrictions" (the "Phase III Declaration") which imposed restrictions upon the use of and activities permitted within wetland and flood plain areas described in the Phase III Plat.

L. Developer and the Owners of Lots in Autumn Park desire by this Declaration to (i) amend and restate the Phase I Declaration and the Phase III Declaration (but not the Phase I Supplemental Declaration or the Phase II Supplemental Declaration, each of which shall continue in effect unamended, unaltered and unmodified hereby); (ii) declare the covenants, conditions and restrictions herein with respect to Phase II and Phase III which, when recorded with the Oakland County Register of Deeds, will establish the benefit and burden of common and consistent covenants, conditions, and restrictions applicable to each of the Phases in Autumn Park, will establish the authority and prerogatives of the Association of Owners established by the Phase I Declaration with respect to the Lots and Common Areas of each Phase of Autumn Park and will extend the rights and obligations of membership in that Association to all of the Owners of Lots in Phases II and III; and (iii) declare the covenants, conditions and restrictions herein with respect to Phase I and Phase II which, when recorded with the Oakland County Register of Deeds, will establish

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the benefit and burden of common and consistent covenants, conditions, and restrictions applicable to open areas that are flood plains or wetlands located in Phase I and/or Phase II of Autumn Park.

M. Richards is the Owner of certain Lots in Phase I and Phase II and has an option to purchase from Developer all of Developer's unsold Lots in Phase III in accordance with the terms of a certain "Option to Purchase Real Estate" dated October 15, 1998, between Developer, as Optionor, and Richards, as Optionee.

N. Each person whose signature appears at the conclusion of this Declaration as the Owner of a Lot ("Approving Owner") has joined in the execution of this Declaration for the express purpose of binding, and benefitting, the Owner's Lot and all other Lots and Common Areas in Autumn Park by the covenants, conditions and restrictions of this Declaration, to provide for a residential subdivision of the highest quality and character.

**NOW, THEREFORE**, Developer, Richards, and all of the Owners whose signatures appear herein below hereby declare that the real property described on attached Exhibit A is, and any parcels and/or lots into which said property may be divided are, and shall be, held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions, reservations and grants hereinafter set forth, together with such other conditions, covenants, restrictions, reservations and grants which are hereafter recorded with respect to such property; all of which conditions, covenants, restrictions, reservations and grants are for the benefit of and shall run with and bind the property and all parties having any right, title or interest in the property or any part thereof, or any improvements thereon, as well as their heirs, successors and assigns.

## **ARTICLE I** **DEFINITIONS**

Section 1.1 "**Association**" shall mean Autumn Park Homeowners Association, a Michigan nonprofit corporation previously formed by Developer for the purposes described in this Declaration, and its successors and assigns.

Section 1.2 "**Autumn Park**" shall mean "Autumn Park", a phased residential development located in the City of Novi, Oakland County, Michigan, which includes and consists of Phase I, Phase II and Phase III, each according to its respective recorded Plat. "**Subdivisions**", however and wherever used in the plural, shall mean and collectively include each of Phase I, Phase II and Phase III in Autumn Park; and however and wherever used in the singular, with or without modification, shall mean only the particular Subdivision specified.

Section 1.3 "**Common Areas**" shall mean those portions, if any, of Autumn Park, (including any improvements thereon) which are intended and/or utilized for the common use and enjoyment of the Owners, whether designated as open space, common area, active recreation, parks, retention ponds, Entranceway Easement, Greenbelt Easement or otherwise on the recorded Plat(s) of the Subdivisions.

Section 1.4 "**Declaration**" means this Amended and Restated Declaration of Covenants, Conditions and Restrictions.

Section 1.5 "**Developer**" shall mean Trinity-Bosco Partnership, a Michigan co-partnership, its successor and assigns.

Section 1.6 "**Flood Plain**" shall mean portions of the Property located at or below an elevation of 927.8 N.G.V.D. and designated as "flood plain" on the Plat of any Phase(s) and/or which are designated as "flood plain" by the Michigan Department of Environmental Quality, the City of Novi and/or any other governmental unit or agency with jurisdiction over the Property.

Section 1.7 "**Lot**" shall mean each unit of land designated for residential use and the residential dwelling unit which is constructed on such unit of land, as identified on the recorded Plat(s) of any of the Subdivisions.

Section 1.8 "**Member**" shall mean a member of the Association.

Section 1.9 "**Owner**" shall mean the holder or holders of the record fee simple title to, and/or the land contract purchaser of a Lot, whether one or more persons or entities. 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 thereof in lieu of foreclosure. In the event that more than one person or entity owns an interest in the 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 and may be voted by either the land contract purchaser or land contract seller, as designated by them in any written agreement which they have caused to be filed with the Association; provided, that the land contract purchaser shall have the right to vote with respect to such Lot in the absence of such written agreement.

Section 2.0 "**Park**" shall mean and include Argyle Park North, Argyle Park South, Autumn Park East, Autumn Park West, Somerset Park, Summer Park, Sunnybrook Park, Whitehall Park East, Whitehall Park North, Whitehall Park West and White Pines Park, all as shown on the Plat of any Phase(s).

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Section 2.1 "**Phase I**" shall mean Autumn Park Subdivision No. 1, according to the Plat thereof recorded in Liber 239, Pages 34-36, both inclusive, Oakland County Records, together with Lots 1-56, both inclusive, and the Common Areas, if any, as are described on such Plat.

Section 2.2 "**Phase II**" shall mean Autumn Park Subdivision No. 2, according to the Plat thereof recorded in Liber 242, Pages 5, 6, 7, 8, and 9, Oakland County Records, together with Lots 57-95, both inclusive, and all Common Areas, if any, as are described on such Plat.

Section 2.3 "**Phase III**" shall mean Autumn Park Subdivision No. 3, according to the Plat thereof recorded in Liber 266, Pages 1-7, both inclusive, Oakland County Records, together with Lots 96-136, both inclusive, and all Common Areas, if any, as are described on such Plat.

Section 2.4 "**Plat**", however and wherever used in the plural, means the recorded subdivision plat (or any subsequently recorded re-plat) for all Phases of Autumn Park, and however and wherever used in the singular, means the recorded subdivision plat (or any subsequently recorded re-plat) of the particular Phase specified.

Section 2.5 "**Property**" shall mean the Phase I, Phase II and Phase III lands, as described on Exhibit "A" attached hereto and incorporated herein.

Section 2.6 "**Wetlands**" shall mean portions of the Property which are subject to a "wetlands preservation easement", as shown on the Plat of any Phase(s), or which are designated "wetland" by a governmental unit or agency with jurisdiction over the Property.

Section 2.7 "**Woodlands**" shall mean the portions of Autumn Park which are subject to woodlands protection under the ordinances of the City of Novi.

## **ARTICLE 2** **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 attached Exhibit A and previously made a part hereof, as the same may be amended.

## **ARTICLE 3** **AUTUMN PARK HOMEOWNERS ASSOCIATION**

Section 3.1 **Creation and Purposes**. Developer has formed a non-profit corporation in accordance with the Michigan Non-Profit Corporation Act, Act No. 162 of the Public Acts

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of 1982, which is known as the Autumn Park Homeowners Association. The Association and its Members shall have the rights and obligations which are described in this Declaration and in the Articles of Incorporation and Bylaws of the Association.

The purposes of the Association are all of those purposes specified by the Articles of Incorporation and Bylaws and include, without limitation, to maintain all Common Areas for the common use of all residents and Owners of Lots within Autumn Park, to maintain mailboxes and newspaper holders, if any, to arrange for the provision of services and facilities of common benefit, to enforce the covenants and restrictions of this Declaration and in general to maintain and promote the desired character of Autumn Park.

**Section 3.2 Membership.** Developer, while any Lot in Autumn Park remains unsold, and every Lot Owner in Phase I, Phase II or Phase III shall be Members of the Association. Every Lot Owner shall become a Class A Member commencing on the date on which the fee simple title to a Lot is conveyed to an Owner, or, if applicable, the date on which a land contract purchaser enters into a land contract to purchase a Lot, provided that the land contract purchaser's interest has not been terminated. All membership rights and obligations shall be appurtenant to and may not be separated from ownership of any Lot.

**Section 3.3 Voting Rights.** The Association shall have two (2) classes of Voting Members, which are as follows:

(a) Class A Members shall consist of all Owners of Lots other than Developer. Each Class A Member shall be entitled to one vote on each matter submitted to a vote of Members for each Lot owned by the Class A Member. Where title to a Lot is in more than one person or entity, all such persons or entities shall be Class A Members and jointly shall be entitled to only one vote per Lot. Where a Lot has been sold pursuant to a land contract, the purchaser under such land contract shall be entitled to the vote for such Lot. Multiple Owners (including co-purchasers under a land contract) may exercise the one vote per Lot as they may mutually agree, and such co-owners or co-purchasers shall notify the Association in writing of the person entitled to exercise the vote. In the event any multiple Owners fail to provide such notice to the Association within thirty (30) days prior to the date set for a meeting, the Owner whose name first appears on record title shall be deemed to be the Member authorized to vote on behalf of all the multiple Owners and any vote cast in person or by proxy given by such Owner, or the failure of such Owner to vote, shall be binding upon all such multiple Owners.

(b) Developer shall be a Class B Member and, to assure the orderly development and maintenance of the Property and Common Areas, shall be entitled to three (3) votes for each Lot owned within Autumn Park. Class B membership shall terminate as to each individual Lot owned by Developer at the time the Lot is sold or

conveyed to Richards or an Owner other than Developer, and Richards, or such Owner, as applicable, shall thereafter be a Class A Member.

**Section 3.4 Articles and By-Laws.** The Association shall be organized, governed and operated in accordance with its Articles of Incorporation and Bylaws, which shall be consistent with the provisions and purposes of this Declaration. In the event there exists any conflict between the provisions contained within the Association Articles of Incorporation and Bylaws and the provisions contained within this Declaration, the provisions of this Declaration shall control.

**Section 3.5 Directors.** The right to manage the affairs of the Association shall be exclusively vested in the Association Board of Directors. The Board of Directors shall consist of five (5) Members who shall be elected by the Members of the Association in accordance with the provisions of the Association's Articles of Incorporation and By-Laws.

#### **ARTICLE 4 RIGHTS IN COMMON AREAS**

**Section 4.1 Right of Members to Use Common Areas.** Each Member of the Association shall have the right and a nonexclusive easement to use the Common Areas for the purposes provided herein. Such right and easement shall be appurtenant to, and shall pass with title to, every Lot.

No dwellings shall be erected in the Common Areas, which shall be used solely for open space, park and recreation, except that the Developer and Association also shall have the right to utilize the Parks for utilities, storm water drainage, wetland preservation and mitigation and such other purposes for which the Developer may have reserved a private easement upon any Subdivision Plat, in accordance with the requirements of the City of Novi and any other governmental units having jurisdiction; and Developer and the Association shall have a reasonable right of access to the Common Areas to accomplish such storm water drainage and wetland mitigation. In addition, the Common Areas shall be used subject to the following provisions:

- (a) There shall be no activity within any Wetlands (and the regulated Wetlands buffer areas) or Woodlands (including the Greenbelt Easement Areas) except those activities which are permitted by applicable statutes, ordinances, rules and regulations of those governmental units having jurisdiction.
- (b) The Common Areas shall be used and maintained in accordance with the provisions of all maintenance and/or easement agreements which are now or hereafter entered into by and between Developer and/or the Association and the City of Novi with respect to the Property or any portion thereof, and any amendments to such agreements.

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(c) The Association shall have the right to establish rules and regulations as the Board of Directors may deem necessary or desirable for the safe, orderly and convenient operation and use of the Common Areas and the improvements, equipment or facilities located thereon, as well as the operation of the Association in accordance with the rights and obligations under this Declaration and the Articles of Incorporation and Bylaws.

(d) The Association shall have the right to suspend the voting rights of any Member and the right of any person to use the Common Areas or the facilities located thereon for any period during which any assessment against such Member's Lot is delinquent, and, after a hearing with opportunity to the Member to be heard with respect thereto, for a period not in excess of sixty (60) days for any other infraction of this Declaration, the Bylaws or any rules or regulations promulgated by the Board of Directors.

(e) The Association shall have the right to charge reasonable admission and other fees for the use of any facility or improvement located in the Common Areas.

(f) The Association shall have the right to establish such rules and regulations as the Board of Directors may deem necessary or desirable for the preservation of any Wetlands and Woodlands located on any portion of the Property.

#### Section 4.2 Common Area Easements.

(a) Developer, the Association and the City of Novi, their agents and representatives, shall have a perpetual easement for reasonable access to the Common Areas at all reasonable times for purposes of maintenance, repair, operation and improvement thereof.

(b) Developer grants to each Owner, and his respective successors and assigns, non-exclusive and perpetual easements for the use and enjoyment of the Common Areas, subject to the following prior rights of the Association, in addition to other limitations set forth in this Declaration. The easements of use and enjoyment shall not be personal, but shall be considered to be appurtenant to the Lots and shall pass with the title to the Lots, whether or not specifically set forth in the deeds of conveyance of the Lots.

(c) The rights and easements of each Owner in and to the Common Areas, including the Parks, shall be subject to:

(i) The right of the Association to levy and collect assessments, as set forth below;

(ii) The right of the Association to suspend the right of an Owner to vote and to use the Common Areas during any period in which any Assessment against his/her Lot remains unpaid.

(iii) The right of the Association to adopt rules and regulations governing the use of the Common Areas by the Owners and their tenants, guests, and invitees and the guests and invitees of their tenants.

(iv) The right of the Association to suspend the right of an Owner to use the Common Areas or the facilities located thereon for any period during which any assessment against such Member's Lot is delinquent, and, after a hearing with opportunity to the Member to be heard with respect thereto, for a period not in excess of sixty (60) days for any other infraction of this Declaration, the Bylaws or any rules or regulations promulgated by the Board of Directors.

(v) The right of the Association to grant easements over, under or across any part of the Common Areas or to dedicate, grant or transfer all or any part of the Parks to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. Any dedication, grant or transfer shall be effective only if an instrument agreeing to such dedication, grant or transfer is signed by fifty-one percent (51%) of the Class A Members and the Developer, if the Developer has an ownership interest in any Lot at the time of the grant.

(vi) Any Owner may delegate, in accordance with the Bylaws of the Association, his rights of enjoyment and use of the Common Areas to the members of his family, his invitees, his tenants or purchasers who reside on his Lot, subject to the terms and conditions of this Declaration, the Bylaws of the Association, and any rules and regulations promulgated pursuant to either of them.

(vii) Developer dedicates and reserves, and the Owners dedicate and grant, for the benefit of the Developer, the Association, and each Owner, an easement for the installation, construction, maintenance, repair, and replacement of a decorative wall, landscaping, and lighting and irrigation systems at the entrances of the Subdivisions ("Entranceway Easement"), together with easements in, over, and on Lots 1, 2, 3, 4, 5, 6 and 54, in the areas designated on the Phase I Plat as "15' Private Non-Access Greenbelt Easement" and "Private Non-Access Greenbelt Easement", and in, over and on Lots 103, 104, and 105, in the area designated in the Phase III Plat as "20' Private Non-Access Greenbelt Easement" (collectively, the "Greenbelt Easement"). The Developer shall install irrigation (sprinkler) systems in the Greenbelt Easement areas. The Association shall be responsible to maintain, repair and replace the irrigation system (including winterization and start-up) located within the Greenbelt Easement areas as well as any decorative wall, landscaping, and lighting in the Entranceway Easement areas. The Association shall bear the cost of electricity and water used for such purposes and shall be billed for their consumption registered on such meters. No Owner may remove or disturb any portion of the decorative wall or the landscaping, lighting or irrigation (sprinkler)

system within the Entryway Easement areas without the prior written approval of the Developer or, if Developer no longer owns any Lot in Autumn Park, the Association.

(viii) The Developer may install signs, or separately affix letters, and a lighting system for the illumination of each sign on the decorative walls on certain Lots located in Autumn Park. If the Developer does so, it shall be the responsibility of the Association to maintain, repair and replace such signs or lettering and lighting systems. If the Association fails to maintain, repair or replace the signs or lettering, or fails to illuminate the signs, the Developer shall have the right, but not the obligation, at the expense of the Association, to maintain, repair or replace the signs or lettering, or the lighting systems, or to illuminate the signs; provided, that the Developer shall not commence to do so until the expiration of thirty (30) days after mailing, by first class mail, postage prepaid, addressed to the Association at the address of its President, written notice specifying the specific matter which is claimed by the Developer to be in default of maintenance, repair, replacement or illumination and stating that the Developer may invoke any of its remedies hereunder if the default is not cured within thirty (30) days after the date of mailing, during which period the Association shall have the right to cure such failure. If a sign is replaced, any replacement sign shall state: "Autumn Park" in prominent letters.

(ix) The Developer shall transfer title to the Parks to the Association, subject to the easements, covenants and restrictions set forth in this Declaration. The Developer dedicates and reserves for the benefit of each Owner easements of ingress and egress, use and enjoyment of the Parks as shown on the Plats. The rights of ingress and egress, use and enjoyment of the Parks are subject to the terms, covenants and conditions set forth in this Declaration and, in particular, the restrictions described below. The Developer or the Association may (but has no obligation to) construct walking paths through the Parks if permitted by the City of Novi. If the Developer or the Association does so, the Association shall maintain, repair and replace the walking paths (if any) in any Park. Each Owner and his/her/their guests or tenants shall have the right to use the Parks, subject to the rules and regulations of the Association. The Association shall have the right to construct other improvements in the Parks, if permitted by the City, which shall be for the use and enjoyment of all Owners, subject to the rules and regulations of the Association and subject to any building restrictions relating to the "Private Easement for Wetlands Preservation, Storm Sewer & Drainage," as shown on the Plats. The Developer shall transfer the title to the Parks to the Association within six (6) months after the date of recordation of this Declaration.

(x) Right to Transfer Easements to the Association. The Developer reserves the right to transfer all of the Developer's right, title, and interest, and all benefits and burdens in the easements described in this section, to the Association.

(xi) The Developer dedicates and reserves an easement for the benefit of the Association to establish, construct, install, and maintain, repair, and replace mailboxes and mailbox stands in locations in Autumn Park approved by the City of Novi and the United States Postal Service, through the Novi Post Office. The Developer shall construct and install and the Association shall maintain, repair, and replace mailboxes and mailbox stands in the approved easement areas.

(xii) The Developer reserves the right, without the consent of the Association or any of its Class A Members, to grant easements through any of the Common Areas for the purposes of allowing the installation, construction, repair, enlargement, modification or removal of any utility lines, television cable, drainage facilities or any other improvements which would serve the Subdivisions.

(d) The Developer shall landscape all other eyebrow islands or cul-de-sac islands located in Autumn Park and the Association shall maintain and replace, as necessary, all landscaping and improvements on the islands located in the right-of-ways (eyebrow islands and cul-de-sac islands) within Autumn Park.

(e) The Association shall maintain, repair and replace, as necessary, the decorative walls, landscaping, irrigation (sprinkler) system, lighting system (fixtures and bulbs), and other improvements constructed or installed by the Developer or the Association in the Entryway Easement areas. The Association shall bear the cost of irrigating (sprinkling) the Entryway Easement areas and the cost of lighting the entryway and decorative walls.

(f) The Association shall maintain, repair and replace the Subdivisions' signs and related lighting systems.

(g) The Association shall maintain and repair, as necessary, the walking path and other improvements located in the Parks. The Association shall bear the cost of irrigating any landscaping located in the Parks and the cost (if any) of electricity used in connection with the lighting in the Parks.

(h) The Association shall improve and maintain, as necessary, the Common Areas in a safe and sanitary condition.

(i) No Owner shall dump or be allowed to accumulate trash, refuse, or rubbish of any kind on the Common Areas, including but not limited to the Parks, Greenbelt Easement areas and Entryway Easement areas. No Owner shall dump or otherwise dispose of chemicals, motor oil, paint, gasoline or petroleum distillates in, over or within the Common Areas or any other location within the Subdivisions or the sanitary or storm sewer drains serving the Subdivisions.

(j) Each Owner and his/her guests, tenants or invitees may use the Parks subject to the following restrictions:

(i) No fires may be built in the Parks. No Owner may store items of personal property in the Parks.

(ii) Picnics shall be restricted to certain hours, as determined by the Association and as set forth in the rules and regulations of the Association.

(iii) Each Owner must remove his or her trash from the Parks after using the Parks.

(iv) The Association may establish rules and regulations governing the activities permitted in the Parks.

(k) The Association shall maintain liability insurance in a minimum amount which is initially \$2,000,000, and which annually is determined by the Board after consultation with an insurance advisor, for the purpose of protecting itself as well as the Owners, the Developer and Builders from the burden of any liability resulting from accidents which may cause death or injury to anyone or damage or casualty to real or personal property while in the Common Areas or on any property under the jurisdiction, ownership or control of the Association. The Board of Directors shall also obtain and maintain workers compensation insurance, if appropriate. The Board of Directors of the Association shall determine the amount of coverage of such insurance.

(l) No obligation which is imposed upon the Association by any provision of this Declaration to maintain, repair and/or replace any of the Common Areas, or any landscaping, signs, lighting, mailboxes, irrigation systems or other Subdivision improvements, shall be construed to absolve the Developer, Richards, any Owner, an Owner's family, guests, tenants, land contract purchasers, agents or invitees, or any other person, of legal responsibility to the Association for damages or costs reasonably incurred by the Association in such maintenance, repair and/or replacement, insofar as the intentional or negligent act or omission of any such person was the proximate cause thereof; provided, that if such damages or costs are covered by insurance carried by the Association, the responsible Owner, family member, guest, tenant, land contract purchaser, agent or invitee shall not be responsible unless full reimbursement to the Association is excluded by virtue of a deductible provision, in which case the responsible Owner shall bear the expense to the extent of the deductible amount. Any costs or damages to the Association may be assessed to and collected from the responsible Owner in the manner provided in Article 5 hereof. The Owners shall have the responsibility to report to the Association any Common Area or Subdivision improvement which has been damaged or which is otherwise in need of maintenance, repair or replacement.

## ARTICLE 5

### COVENANTS FOR MAINTENANCE AND CAPITAL CHARGES

#### **Section 5.1 Creation of the Lien and Personal Obligation for Assessments.**

Each Owner of a Lot, other than Developer, by accepting conveyance of such Lot, or, by entering into a land contract for the purchase of such Lot, shall be deemed to covenant and agree to pay to the Association when due the assessments described below, regardless of whether or not such covenant shall be expressed in the instrument of conveyance or land contract:

- (a) Annual assessments to meet regular Association expenses, which shall include such assessments required to maintain any Common Area; and
- (b) Special assessments for capital improvements, to be established and collected as specified in Section 5.4; and
- (c) Special assessments for maintenance of Owners' Lots, to be established and collected as specified in Section 5.5; 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 personal obligation of the person who was the Owner of the Lot on the date the assessment was established.

**Section 5.2 Purpose of Annual Assessments.** The annual assessments levied under this Article 5, and the working capital funds required under Section 5.3(c), shall be used by the Association for all of the following purposes: (i) the maintenance and improvement of the Common Areas, including but not limited to Autumn Park Lake and the Parks; (ii) the irrigation of certain portions of the Common Areas; (iii) the payment of real estate taxes and special assessments relating to the Common Areas and improvements made on the Common Areas and other property under the control of the Association; (iv) the planting and maintenance of trees shrubs, grass, flowers and other landscaping in the Common Areas, including any Entranceway Easement area, cul-de-sac or eyebrow island area; (v) the acquisition of Common Areas; (vi) the maintenance or repair of wetlands, if necessary; (vii) the construction, operation, maintenance, repair, and replacement of communal and recreational facilities; (viii) the caring for vacant Lots; (ix) the maintenance

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of drainage facilities which service the Subdivision(s), whether inside or outside of the Subdivisions' boundaries; (x) the providing of community services; (xi) the maintenance, illumination, repair and replacement of entryway signs; (xii) the maintenance, repair and replacement of street signs not maintained by the City of Novi; (xiii) the obtaining of casualty, premises liability and directors' and officers' insurance for the protection of the Common Areas, Association and the Owners; (xiv) the paying of administrative costs relating to the operation of the Association, including but not limited to management fees, utility charges, bank charges, accounting fees and legal fees; (xv) establishing and maintaining appropriate reserves for such purposes; and (xvi) promoting the recreation, health, welfare and safety of residents of the Property.

**Section 5.3 Annual Assessments.** Annual assessments shall be levied and paid in the following manner:

- (a) The Board of Directors of the Association shall levy against each Lot an 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. The Board of Directors of the Association shall have the right to levy additional assessments against each Lot as maybe necessary to defray amounts by which the Association's actual costs, expenses and obligations exceed such projected costs, expenses, and obligations.
- (b) Within thirty (30) days from the beginning of each fiscal year of the Association thereafter, the Board of Directors shall send a written notice of assessment to each Owner stating the amount of the assessment established by the Board of Directors for the ensuing year, which shall not be less the Three Hundred Twenty Five and 00/100 Dollars (\$325.00) per Lot. Each Owner shall pay such assessment within thirty (30) days from the date such written statement is mailed. Assessments not paid within the thirty (30) day period shall be deemed delinquent and interest shall accrue on delinquent assessments at the lower of ten percent (10%) per annum or the highest rate permitted by law.
- (c) Any Owner who acquires a Lot from Developer or from a person or entity exempt from the payment of assessments under Section 5.7 below, shall pay to the Association, on the date the Lot is conveyed to the Owner: (i) the amount of Five Hundred and 00/100 Dollars (\$500.00), which constitutes a one-time, non-refundable contribution to the Association's working capital account (and not a prepayment of any annual, additional and/or special assessment); and (ii) an amount equal to the prorated balance of any 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, the Owner shall be liable for any and all assessments levied in accordance with this Article 5.

(d) The fiscal year of the Association shall be established in the manner set forth in the Association's Bylaws.

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

Section 5.4 Special Assessments for Capital Improvements. In addition to the annual and additional assessments authorized by Section 5.3 above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any improvements within the Common Areas, including any fixtures, equipment and other personal property relating thereto; provided, however, that no such special assessment shall be levied unless first approved by sixty percent (60%) of the total combined Class A and Class B votes, cast in person or by proxy at a meeting of the Association Members duly called for such purpose. Written notice of the 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. Any special assessment not paid when due shall be deemed delinquent and interest shall accrue on such delinquent assessment at the rate specified in the assessment, or, if not specified, at the lower of ten percent (10%) per annum or the highest rate permitted by law. The quorum required for the first meeting called for the purpose of voting on a special assessment shall be at least fifty percent (50%) of all the then authorized votes present, either in person or by proxy. If the required quorum is not present at the first meeting called for the purpose of considering the special assessment, another meeting may be called for such purpose, with notice thereof to be given as provided for in this Section 5.4 and the required quorum at any such subsequent meeting shall be two-thirds (2/3) of the required quorum for the first meeting, provided that such second meeting is held within sixty (60) days from the date of the first meeting.

Section 5.5 Uniform Assessment Rate: Assessments Against Specific Properties.

(a) Subject to Section 5.5(b) below, all annual, additional and special assessments shall be fixed and established at the same rate for all Lots within the Property.

(b) Notwithstanding Section 5.5(a) above, and in addition to the assessments otherwise authorized in this Article 5, the Association may levy a special assessment against one or more specific Lots, for the purpose of maintaining and caring for the surface of such Lot and any plantings, landscaping or other vegetation located on such Lot. An assessment for such purposes shall not be levied except in compliance with the following procedures:

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(i) The Board of Directors shall preliminarily determine that the appearance of a Lot 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 6 herein below. Such determination shall be made by the Board of Directors.

(ii) Written notice of such preliminary determination, which specifies the nature of the unsatisfactory condition and the actions required to remedy the unsatisfactory condition, shall be mailed, postage prepaid, addressed to the Owner of the offending Lot. The Owner, by a signed writing received by the Board of Directors within fourteen (14) days after the date the preliminary determination is mailed to the Owner, may request a hearing at which the Owner may present evidence and otherwise contest such preliminary determination of the Board of Directors and, if the Owner does so, the Board of Directors shall afford the Owner a reasonable opportunity for the hearing at the next regular meeting of the Board of Directors or a special meeting scheduled for such purpose.

(iii) The Owner shall have a period of not less than thirty (30) days from the date the Owner receives the above-referenced notice of preliminary determination by the Board of Directors, or twenty-one (21) days after any final determination made by the Board of Directors after a requested opportunity for hearing is afforded, as provided above, in which to commence the required work.

(iv) If the Owner has not commenced the required work within the thirty (30) day period or, if 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 cost against such Lot; provided, however, such cost shall not exceed the reasonable cost for performing such work.

(v) Any assessment levied under this Section 5.5(b) shall be due and payable thirty (30) days from the date an assessment statement is mailed, postage prepaid, addressed to the Owner. Any such assessment not paid when due shall be deemed delinquent and interest shall accrue on such delinquent assessment at the lower of ten percent (10%) per annum or the highest rate permitted by law.

**Section 5.6 Certificate With Respect to Assessments.** Upon the written request of any Owner, the Association shall furnish within twenty (20) days a written certificate regarding the status of any unpaid assessments, interest, late charges, fines, costs, attorney fees and related collection or other costs which are a lien upon 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 unpaid assessments, interest, late charges, fines, costs, attorney fees and related collection or other costs which are a lien upon such Owner's Lot(s) as between the Association and any bona fide purchaser of such Lot(s).

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described in the certificate and any lender who takes a lien on the Lot as security for the repayment of a loan to finance the purchase. The Association may charge such reasonable amounts for preparation of the certificate described in this Section as the Association shall, in its discretion, determine.

**Section 5.7 Exemptions from Assessments**

- (a) All Lots owned by Developer shall be exempt from all annual, additional and special assessments. Upon conveyance of any Lot by Developer to a Class A Member, 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. However, any Lots owned by Developer shall not be exempt from assessments by the City of Novi for real property taxes and other charges.
- (b) Builders, developers and real estate companies 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 annual, additional or special assessments imposed by the terms of this Article 5; provided, however, that any exemption established by this Section 5.07(b) shall cease and terminate as to any Lot contained in any Phase in the event construction is not commenced within two (2) years from the date the Plat for the Phase was recorded.

**Section 5.8 Subordination of Liens to Mortgages**. The lien for assessments provided for in this Article 5 shall be subordinate to the lien of any mortgage or mortgages held by any bank, savings and loan association, 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 first 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 event shall the prior Owner of such 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 assessments, and no 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 5.9 Late Charge; Collection of Assessment and Creation of Lien**. If any installment of any annual, additional or special assessment shall not be paid within thirty (30) days from the date payment is due a late charge in the amount of Twenty-five (\$25.00) per month or such other amount as may be determined by the Board of Directors, effective upon fifteen (15) days notice to the Members of the Association, shall be assessed automatically by the Association upon any assessment in default until paid in full. Such

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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 estimate of the administrative costs and other damages incurred by the Association in connection with the late payment of assessments. The Association may sue the Owner and obtain a personal judgment against such Owner and/or may enforce the lien 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 such costs and reasonable attorneys' fees.

Section 5.10 **Action by the City of Novi.** In the event the Association fails at any time to maintain the Common Areas in reasonable order and condition, the City of Novi may serve written notice upon the Association setting forth the manner in which the Association has failed to maintain the Common Areas, Wetlands and/ or Woodlands and such notice shall include a demand that deficiencies of maintenance be cured within thirty (30) days thereof and shall further state the date and place of a hearing thereof before the City Council or such other board, body or official to whom the City Council shall delegate such responsibility, which shall be held within fourteen (14) days of such notice. If deficiencies set forth in the original notice, or any modification thereof, shall not be cured within such thirty (30) day period or any extension thereof, the City of Novi, in order to prevent the Common Areas from becoming a nuisance, may maintain the same and the costs of maintenance shall be assessed against the Owners of the Lots and their respective successors and assigns, which assessment shall be payable in the manner required by the City of Novi. In addition to other methods of collection, the City of Novi shall have the right to place such assessment on the City Tax Rolls of the assessed property.

## **ARTICLE 6** **GENERAL RESTRICTIONS**

Section 6.1 **Land and Building Use Restrictions.** All Lots shall be used for residential purposes only. No building of any kind whatsoever shall be erected, re-erected, moved or maintained on any Lot or Lots except one single-family dwelling and appurtenant attached structures. Each house shall be designed and erected for occupation by a single family. An attached garage for the sole use of the occupants of the Lot upon which the garage is erected must also be erected and maintained. Lessees and non-Owner occupants of any Lot shall be subject to the terms and conditions of this Declaration, the Bylaws and all rules and regulations promulgated pursuant to this Declaration and the Bylaws, all of which shall be incorporated into the lease of any Lot by reference, and any violation of the same by a lessee or non-Owner occupant shall be deemed to be a violation by the lessor-Owner and subject that Owner to the same penalties and sanctions as if the Owner himself/herself violated this Declaration, Bylaws or any rules and regulations.

Section 6.2 **Dwelling Quality and Size.** It is the intention and purpose of this Declaration to insure that all dwellings in Autumn Park shall be of quality, design,

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workmanship and materials approved by the Committee established in Article 7 below. All dwellings shall be 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 Committee, its successors and/or assigns. No dwelling shall be permitted on any Lot unless, in the case of a one-story, quad-level or tri-level building, the living area thereof shall be not less than two thousand (2,000) square feet, and in the case of a two-story or one and one-half story building, the living area thereof shall be not less than one thousand two hundred (1,200) square feet on the first floor and a total of two thousand four hundred (2,400) square feet. No building greater than two (2) stories shall be constructed (a walk-out basement shall not be considered a story). All computations of "living area" square footage for determination of the permissibility of erection of dwellings under this section shall include the actual area within the outer surfaces of the exterior walls of the dwelling but shall exclude any garage, basement, attic, unheated porch, breezeway or entranceway.

Notwithstanding the foregoing, the Committee established in Article 7 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 the Owner demonstrates to the satisfaction of the Committee that 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. In no event, however, shall the minimum square footage requirement be reduced below the minimum square footage required under the City of Novi's Zoning Ordinance. 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 6.3 Building Location.** All buildings and structures shall be located on each Lot in accordance with all applicable ordinances, rules and regulations of the City of Novi.

**Section 6.4 Lot Size.** The minimum lot size for each Lot shall be the size established for such Lot in the applicable recorded Plat. In the event more than one (1) Lot, or portions thereof, are developed as a single unit (and except as to the obligation of an Owner for all 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 6.5 Garages.** All garages must be attached to the dwelling. No garage shall provide space for less than two (2) automobiles nor more than four (4) automobiles. All garages shall be designed to open toward the side yard of a Lot.

**Section 6.6 Minimum Yard Requirements.** No building on any Lot shall be erected nearer than:

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- (a) Thirty-five feet (35') from the front lot line, except that Section 6.3 above shall control as to the front lot line setback of any Lot which fronts upon White Pines Drive; nor
- (b) A minimum of ten feet (10') from each side lot line, for a combined side yard setback of twenty feet (20'); nor
- (c) Thirty-five feet (35') from the rear lot line; nor
- (d) Thirty-five feet (35') from the exterior side lot line on corner lots.

Approval of a variance by the Committee established in Article 7 below and by the City of Novi permitting front, rear or side yards smaller than the above minimums shall be deemed a valid waiver of this restriction. For corner lots, each lot line abutting a street shall be deemed a front lot line.

**Section 6.7 Repetition of Elevations.** Dwellings with similar elevations shall not be constructed adjacent to each other with the same color scheme.

**Section 6.8 Driveways.** Access driveways and other paved areas designed for vehicular use on a Lot shall have a base of compacted sand, gravel, crushed stone or other approved base material and shall have a wearing surface of concrete or its equivalent. Asphalt wearing surfaces shall not be permitted. Plans for driveways, pavement edging or markers must be approved by the Committee in writing prior to commencing any construction in accordance with such plans.

**Section 6.9 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 Committee established in Article 7 below and the City of Novi, take such steps as shall be necessary to remedy such condition, subject to the provisions of Section 6.30 below, provided that the Owner does not install storm drainage improvements or any obstructions or diversions of existing storm drainage facilities that cause damage to other property.

**Section 6.10 Building Materials.** Exterior building materials may be stone, brick, wood siding or any other material which blends with the architecture and natural landscape and which is approved by the Committee established in Article 7 below.

**Section 6.11 Home Occupations, Nuisances and Livestock.** No home occupation, profession or commercial activity shall be conducted in any dwelling located in Autumn Park; provided, that this shall not be construed to prohibit an Owner from operating from his Unit a home office, unless prohibited by City ordinance, or a personal professional library, from keeping personal, professional or business records in the dwelling constructed

on his Lot, from handling personal business or professional telephone calls in the dwelling or operating a home-based business from that dwelling; provided, that any home-based business is operated discreetly, does not have any on-site employees who are not residents of that dwelling, does not materially increase traffic within Autumn Park, does not produce odors, noises or other affects which may be noticeable outside the dwelling and does not involve the manufacture of goods or sale of goods from inventory. The restrictions of the preceding sentence shall not apply to model homes owned by, or the sales activities of, Developer or builders, developers and real estate companies who own or hold any Lots for resale to customers in the ordinary course of business. No noxious or offensive activity shall be carried on in or upon any Lot or premises nor shall anything be done thereof 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. 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. 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 City of Novi, provided that it does not become offensive or a nuisance. No occupied or unoccupied Lot shall be used or maintained as a dumping ground for rubbish or trash.

**Section 6.12 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 6.13 Temporary Buildings, Damaged Dwellings and Reconstruction.** No trailer, mobile home, van, tent, shack, garage, barn, 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; provided, however, that the foregoing restriction shall not apply to any activities by Developer or any builder, developer or real estate company during any sales and/or construction periods. Upon conveyance of any Lot by Developer or a builder to an Owner other than Developer or a builder, the exemption for such Lot shall thereupon cease and such Lot shall be subject to the foregoing restriction. Tents for entertainment or recreational purposes are permitted only for periods not to exceed forty eight (48) hours. All permanent dwellings shall be completed within two (2) years from the commencement of construction. No old or used buildings of any kind whatsoever shall be moved to 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 such Owner's agents, servants, employees or independent contractors, in connection with such Owner's Lot shall be restored by such Owner, at his sole expense, to its condition immediately prior to the commencement of such work. Such restoration shall be performed immediately following the completion of such work or, if such work is not completed, within a reasonable time following the date the work stopped. No storage sheds or gazebos shall be erected on a Lot without the prior written approval of the Committee established in Article 7.

Section 6.14 **Soil Removal**. Soil removal from Lots shall not be permitted, except as required for building construction and as permitted by Developer. In addition, all construction shall be subject to the requirements of the Michigan Soil Erosion and Sedimentation Control Act and all other applicable statutes, ordinances, rules and regulations of all governmental units having jurisdiction over such activities.

Section 6.15 **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.

Section 6.16 **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 the edges of street pavements which abut their Lots.

Section 6.17 **Tree Removal**. Clear-cutting or removal of trees greater than eight inch (8") caliper at breast height shall not be permitted unless such clear-cutting or tree removal is in compliance with all applicable municipal ordinances, including but not limited to, the City of Novi Woodlands Ordinance. Prior to commencement of construction, each Lot Owner shall submit to the City of Novi, if required by the City for its approval, a plan for the preservation of trees in connection with the construction process. It shall be the responsibility of each Lot Owner to maintain and preserve all large trees on its Lot, which responsibility includes wetting trees, if necessary.

Section 6.18 **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 6.19 **Vehicular Parking and Storage**. No trailer, mobile home, bus, boat trailer, boat, camping vehicle, motorcycle, recreational vehicle, commercial or inoperative vehicle of any description shall at any time be parked, stored or maintained on any Lot, unless stored fully enclosed within an attached garage or similar structure; provided,

however, that builders' trucks and equipment may be parked and used on any Lot during construction operations, and a mobile home, camping vehicle or recreational vehicle may be temporarily parked on a Lot, solely in order to facilitate loading or unloading, for a continuous period of forty-eight (48) hours but not more frequently than two (2) times in any thirty (30) day period. 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 6.20 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 Lot Owners. No outside storage of refuse or garbage shall be permitted unless it is properly concealed. The burning or incineration of rubbish, trash, construction materials or other waste outside any residential dwelling is strictly prohibited.

**Section 6.21 Fences and Obstructions.** No fences, walls or similar structures shall be erected on any Lot, except for the purpose of enclosing swimming pools permitted under Section 6.24. Any such fences, walls or similar structures must be approved in writing by the Committee established in Article 7. In addition, no fence, wall, structure, planting or obstruction shall be erected, established or maintained on any corner Lot within a triangular area formed by the street lines and a connecting line which is at a point twenty-five feet (25') from the intersection of such street lines, which shall have a height that is more than two feet (2'); provided, however, shade trees with wide branches which are at least eight feet (8') above ground shall be permitted within such area. In no event shall chain link fences be permitted on any Lot.

**Section 6.22 Landscaping and Grass Cutting.** Upon completion of a residential dwelling on any Lot, the Owner shall 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 six (6) months from the date of completion. When weeds or grass located on any Lot exceed six inches (6") in height, the Owner of such Lot shall mow or cut such weeds and grass over the entire Lot except in wooded areas, Woodlands and Wetlands. If the Owner fails to mow or cut weeds or grass within ten (10) days after being notified in writing, Developer may perform such work and the cost of such work shall become a lien upon the Lot(s) involved until paid. All Lots owned by Developer or a builder who owns Lots for resale in the ordinary course of business shall be exempt from the foregoing restrictions contained in this Section 6.22. Upon conveyance of any Lot by Developer or a builder to an Owner other than Developer or a builder, the exemption for such Lot shall thereupon cease and such Lot shall be subject to all of the restrictions contained in this Section 6.22.

**Section 6.23 Motorized Vehicles.** No trail bikes, motorcycles, snowmobiles or other motorized recreational vehicles shall be operated on any Lot or in any drain easement, side strip, Common Areas or retention area of the Autumn Park.

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Section 6.24 **Swimming Pools, Tennis Courts and Other Structures.** No swimming pools, tennis courts, outdoor whirlpools, hot tubs, wood decks or other recreational structures shall be constructed on any Lot without the prior written approval of Developer. No above-ground swimming pools shall be allowed on any Lot. The construction of any swimming pool or other recreational structure which has been approved in writing by Developer shall be constructed in accordance with this Declaration and with all applicable local ordinances and/or state law.

Recreational structures, including swimming pools, tennis courts, whirlpools, hot tubs and the like, if permitted in writing by Developer, shall be screened from any street lying entirely within the Property, by wall, solid fence, evergreen hedge or other visual barrier as approved in writing by Developer and in compliance with all applicable laws, governmental regulations and ordinances.

Section 6.25 **Lawn Fertilization.** Any fertilizer used on any Lot abutting any Common Area or Wetland shall have a low phosphorus content and the City of Novi may require City approval prior to use of any fertilizer on any such Lot.

Section 6.26 **Signs; Illumination.** No signs of any kind 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 showing the design, size, materials, message and proposed location(s) have been submitted to, and approved in writing by, Developer, with the exception of: (i) non-illuminated signs which are not more than four (4) square feet in area pertaining only to the sale of the premises upon which it is maintained; and (ii) non-illuminated signs which are 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. The foregoing restrictions contained in this Section 6.26 shall not apply to signs that may be installed or erected on any Lot by Developer or any builder who owns Lots for resale in the ordinary course of business, during any construction period or during any periods that a residence may be used as a model or for display purposes.

No exterior illumination, other than low wattage lighting the principal purpose of which is landscape enhancement, and not illumination, shall be placed or allowed on any portion of a Lot other than on a residential dwelling, unless first approved by Developer. Developer 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.

Section 6.27 **Objectionable Sights.** No above or below ground fuel or other storage tanks shall be permitted. Stockpiling and storage of building and landscape materials and/or equipment shall not be permitted on any Lot, except for materials and/or equipment which are used within a reasonable length of time. In no event shall landscape materials be stored 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 a dwelling. No lawn ornaments, statues or outdoor art shall be placed on any Lot without the prior approval of the Committee, with the exception of holiday decorations. The approval of the Committee concerning all outdoor statuary may be withheld in its sole discretion for purely aesthetic reasons. No television or radio antennae or satellite dishes shall be constructed or erected upon the exterior of any dwelling on any Lot without the prior written approval of the Committee. Notwithstanding the preceding sentence, subject to City ordinance, if any, the provisions of this Section and any written rules and regulations promulgated by the Board, an Owner may install the following three (3) types and sizes of antennas in or on the dwelling structure constructed upon his Lot: (1) Direct broadcast satellite antennas ("Satellite Dishes") one meter or less in diameter; (2) Television reception antennas of any size; and (3) Multi-point distribution service antennas (sometimes called wireless cable or MDS antennas) one meter or less in diameter. Antenna installation on other portions of any Lot or on the Common Areas is prohibited. The rules and regulations promulgated by the Board governing installation, maintenance or use of antennas shall not impair reception of an acceptable quality signal, unreasonably prevent or delay installation, maintenance or use of an antenna or unreasonably increase the cost of installing, maintaining or using an antenna. Such rules and regulations may provide for, among other things, placement preferences, screening and camouflaging or painting of antennas. Such rules and regulations may contain exceptions or provisions related to safety, provided that the safety rationale is clearly articulated therein. Antenna masts, if any, may be no higher than necessary to receive acceptable quality signals and may not extend more than twelve (12) feet above the roofline without Board approval, due to safety concerns. An Owner desiring to install an outside antenna must notify the Association prior to installation by submitting a notice in the form prescribed by the Association. If the proposed installation complies with this Section 4(b) and all rules and regulations promulgated by the Board regarding installation and placement of antennas, installation may begin immediately; if the installation will not comply, or is in any way not routine in accordance with this Section and the rules and regulations, then the Association and Owner shall meet to discuss the installation promptly and in any event within seven (7) days, if possible, after receipt by the Association of the notice. The Association may prohibit Owners from installing the aforementioned Satellite Dishes and/or antennas if the Association provides the Owner(s) with access to a central antenna facility that does not impair the viewer's rights under Section 207 of the Federal Communications Commission ("FCC") rules. This Section is intended to comply with the rule governing antennas adopted by the FCC effective October 14, 1996, as amended by Order on Reconsideration released September 25, 1998, and is subject to review and revision to conform to any changes in the content of the FCC rules or the Telecommunications Act of 1996, and this Section may be modified through rules and regulations promulgated by the Board pursuant to Section 11 of this Article VI.

Section 6.28 **Maintenance**. The Owner shall keep all buildings and grounds of his Lot in good condition and repair. The exterior of all structures shall be maintained in good repair, structurally sound and in a sanitary condition so as not to threaten the health, safety

or welfare of any occupant or to substantially detract from the appearance of Autumn Park.

Section 6.29 **Real Estate Sales Office**. Notwithstanding anything to the contrary contained in this Declaration, Developer, and/or any builder which Developer may designate, may construct and maintain on any Lot(s) a real estate sales office, with such promotional signs as Developer or such builder may determine and/or a model home or homes for such purposes; Developer and any such designated builder may continue such activity until all of the Lots in which Developer and such builder have an interest are sold.

Section 6.30 **Wetlands and Flood Plain**.

(a) Wetlands and any regulated Wetlands buffer areas shall not be modified in any manner by any person or entity other than the Developer or its authorized representatives, unless a permit for such modification has been issued by the City of Novi and any other governmental unit having jurisdiction over such Wetlands.

(b) No filling or occupation of any Flood Plain area(s) shall be allowed without the approval of the Department of Environmental Quality or its successors and/or the City of Novi. In addition, any building used, or capable of being used, for residential purposes or occupancy on any Lot, any portion of which is within, or affected by, the Flood Plain area(s), shall have all lower floors, including basements, at or higher than the elevation of the contour defining the Flood Plain area(s) limits. Notwithstanding anything contained in this Declaration to the contrary, the restrictions of this Section 6.30 shall be perpetual and shall run with the land.

Section 6.31 **Non-Access Greenbelt Easement**. A Greenbelt Easement, as shown on the recorded plats for Phase I and Phase III, is hereby expressly reserved to Developer and granted to the Association in, through and across: (a) a strip of land abutting Beck Road which is fifteen (15') feet in width along the rear lot lines of Lots 1, 2, 3, 4, 5, 6, 7 and 8 and the side lot line of Lot 54; (b) a strip of land abutting Nine Mile Road which is fifteen (15') in width along the rear lot lines of Lots 17, 18, 19, 20 and 21 and the side lot line of Lot 22; and (c) a strip of land abutting Beck Road which is twenty (20') feet in width along the rear lot lines of Lots 103, 104 and 105 and the rear boundary of White Pines Park. The Greenbelt Easement areas shall be covered by a suitable ground cover and a screen planting, which shall initially be put in place by Developer and shall thereafter be maintained in presentable condition by the Association. There shall be no access for vehicles to and from any Lot across a Greenbelt Easement.

Section 6.32 **Reservation of Easements: Developer Right to Convey Easements**. Private easements for the construction, installation, maintenance and replacement of public utilities, and all related equipment, facilities and appurtenances, are shown on the recorded Plats for all Subdivisions. 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 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 by the builder of any residential dwelling thereon, without the prior written consent of Developer. Access shall be granted to Developer and its successors and assigns by the Owner of each Lot to an easement which burdens such Lot for the maintenance of all improvements in, on, over and/or under such easement, without charge or liability for damages. Except as may otherwise be provided in this Declaration, the Owner of each Lot shall maintain the service area of all easements within his 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 an easement, including, but not limited to, damage to electric, gas, telephone and other utility and communication distribution lines and facilities, which arises as a consequence of any act or omission of the Owner, his agents, invitees and/or licensees.

The Developer reserves, for so long as the Developer shall own any Lot in any of the Subdivisions, and Richards and all Owners agree that Developer shall have, the right, in furtherance of any Wetlands preservation or utility easement shown or designated upon the recorded Plat for any Phase, to execute, acknowledge and deliver one or more instruments whereby the Developer grants or conveys such easement to, in the case of any Wetlands preservation easement, the Michigan Department of Environmental Quality or another appropriate unit or agency of government, or in the case of any utility easement, the public or private utility providing service to the Subdivisions.

Section 6.33 **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 within the boundaries of the Property.

## ARTICLE 7 ARCHITECTURAL CONTROLS

Section 7.1 **Architectural Controls**. It is understood and agreed that the purpose of architectural controls is to promote an attractive, harmonious residential development having continuing appeal. Accordingly, no building, fence, wall, deck, swimming pool, outbuilding, drainage structure or other structure, or exterior improvement shall be commenced, erected or maintained on any Lot, nor shall any exterior addition to or change or alteration therein or change in the exterior appearance thereof be made until the plans and specifications showing the kind, size, shape, height, colors, materials, topography and location of the same on the Lot shall have been submitted to and approved in writing by an architectural review committee (the "Committee"). Initially, the Committee shall be

composed of three (3) persons, each of whom shall be appointed by the Developer. Committee members are not required to be Members of the Association, and may be employees, officers, directors, agents or affiliates of the Developer. Each member of the Committee shall serve until he resigns or is replaced by a subsequent appointee. The Developer may delegate or assign its power of appointment of Committee members to its successors, assigns, or the Association. Neither the Developer nor the Committee shall have any liability whatsoever for the approval or disapproval of any plans or specifications. At such time as the fee simple interest in ninety percent (90%) of the Lots in all Phases of Autumn Park have been conveyed by the Developer, or, at such earlier time as Developer may elect, Developer, by a written instrument wherein the assignee expressly accepts such powers and rights, shall delegate and assign to the Committee all of its rights, duties and obligations of, or which are reserved to, the Developer, as set forth in Article VI or this Article VII. Thereupon, all Developer-appointed Committee members immediately shall resign their Committee membership and the Board of Directors of the Association shall be authorized to appoint their successors.

**Section 7.2 Submission of Plans and Plan Approval**. Preliminary plans describing the improvements proposed to be made may be submitted to the Committee for preliminary consideration and approval prior to the preparation and submission of the plans and specifications for final review. Plans and specifications for final consideration for approval by the Committee shall include the following:

- (a) Complete plans and specifications sufficient to secure a City of Novi building permit, including a dimensioned plot plan showing the Lot and the placement of all improvements
- (b) Front elevation, side elevations and rear elevation of the building, plus elevations of any walls and fences;
- (c) A perspective drawing, if deemed necessary by the Committee, to interpret adequately the exterior design;
- (d) Data as to size, materials, colors and texture of all exteriors, including roof coverings and any fences and walls;
- (e) One set of blueprints to be left with the Committee;
- (f) Any other data, drawings or materials which the Committee requests in order to fulfill its function.

**Section 7.3 Compliance with Building and Use Restrictions**. No approval by the Committee shall be valid if the structure or improvement violates any of the restrictions set forth in this Declaration unless waivers have been granted in the manner provided herein.

**Section 7.4 Disapproval of Plans or Improvements.** The Committee may disapprove plans because of noncompliance with any of the restrictions set forth in this Declaration, or because the Committee is not satisfied with the grading and drainage plan, the location of the structure on the Lot, the materials used, the color scheme, the finish, design, proportion, shape, height, style or appropriateness of the proposed improvement or alteration or because of any other matter, which, in the Committee's judgment, renders the proposed improvement or alteration inharmonious with the objectives of the Developer in the creation of Autumn Park or the provisions of this Declaration as determined by the Committee, in its sole discretion, or with improvements erected or to be erected on other Lots in the Subdivisions, including purely aesthetic considerations.

No member of the Committee shall be liable for any approval or disapproval of any plan. The decision of the Committee is final and there is no appeals process.

**Section 7.5 Approval Time Schedule.** If the Committee fails to approve or disapprove plans within thirty (30) days after the proper and complete submission of plans and specifications, then such approval will not be required, but all other limitations, conditions and restrictions set forth in the Declarations shall apply and remain in force as to such plans, specifications, and improvements. In considering such plans and specifications, Developer shall have the right to take into consideration the 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 insofar as practical.

**Section 7.6 Committee Approval.** Committee approval shall be deemed given if either (a) the plans and specifications submitted for approval are marked or stamped as having been finally approved by the Committee, or (b) an approval form specifying the plans and specifications submitted for approval is dated and signed by two (2) members of the Committee who were validly serving on the Committee on the date of such approval.

**Section 7.7 Guidelines.** The Committee may, but shall not be required to, adopt guidelines for its approval process. The guidelines, if adopted, may include discussion of aesthetic standards to be utilized by the Committee in approving plans and specifications, preferred materials, preferred styles of residences, and other matters which will assist Owners seeking Committee approval. The guidelines, if adopted, will be intended solely for the purposes of illustrating and explaining current Committee standards. The guidelines shall not be construed to create any obligation on the part of the Committee to approve or reject any specific plan or specification or to otherwise modify or diminish the discretion of the Committee under this Article.

**Section 7.8 Review Fee.** The Committee may charge a review fee of a maximum of One Hundred Dollars (\$100.00) to any Builder or Owner for the purposes of reviewing plans for the construction of a residence. The fee may not be utilized for the purposes of

paying salaries to any members of the Committee but shall be utilized exclusively for the purposes of reimbursing actual expenses of the Committee, including, but not limited to, professional review fees of independent consultants.

## **ARTICLE 8** **GENERAL PROVISIONS**

Section 8.1 **Amendment**. Provided that Developer has an ownership interest in all, or any part, of the Property, Developer, upon thirty (30) days' prior written notice mailed, postage prepaid, to the Association at the address of its President, which states the Developer's intention to so amend this Declaration, and which is accompanied by a true and complete copy of the proposed amendment, but without the consent of any other Owner or any other person or entity whatsoever (whether or not any such person or entity shall now or hereafter have an interest in any Lot or portion of the Property, including mortgagees and others), may amend this Declaration as may be necessary or required to comply with the requirements of any federal, state, county or local statute, ordinance, rule, regulation or formal requirement relating to all or any part of the Property, or to increase or decrease the amount of land described on Exhibit A of this Declaration as Developer deems necessary, subject to the approval of the City of Novi if such approval is required. In addition to the foregoing, Developer may at any time, without the consent of any Owner, mortgagee or any person who now or hereafter has any interest in and to the Property, amend this Declaration in order to correct survey or other errors or in order to facilitate conventional mortgage loan financing for existing or prospective Owners and to enable the purchase or insurance of such mortgage loans by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Veterans Administration or the Department of Housing and Urban Development, or by any other public or private insurer or any institutional participant in the secondary mortgage market.

Subject to the foregoing, the covenants, conditions, restrictions and agreements of this Declaration, as they relate to any Subdivision, may be amended at any time by a written instrument signed by: (i) the Owners of seventy-five percent (75%) of the total Lots contained within Autumn Park; and (ii) Developer, in the event Developer then continues to own any Lots or any portion of the Property. Notwithstanding the foregoing, any and all such amendments shall be subject to the approval of the City of Novi, if such approval is required. Upon receiving a written instrument signed by the requisite number of Owners and by Developer, the Association or Developer shall record an appropriate amendment with the Oakland County Register of Deeds.

Section 8.2 **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 twenty (20) years from the date this Declaration is recorded and shall thereafter automatically be extended for successive periods often (10) years each, unless terminated

by written instrument executed by: (i) the Owners of not less than seventy-five percent (75%) of the total Lots in Autumn Park; and (ii) Developer, in the event Developer then continues to-own any Lots or any portion of the Property. Notwithstanding anything to the contrary contained in this Declaration, the provisions of Sections 6.17, 6.25 and 6.30 of this Declaration shall run forever, without right of termination or amendment unless modified or deleted pursuant to an amendment authorized by Section 8.1.

**Section 8.3 Enforcement.** Developer, 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 Developer, 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.

(a) **Relief Available**. Any default by an Owner shall entitle the Association or any other Co-owner(s) to the following relief:

- (i) **Legal Action**. Failure to comply with any of the covenants, conditions and restrictions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board shall be grounds for relief, which may include without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of lien (if default in payment of assessment) or any combination thereof, and such relief may be sought by the Association or, if appropriate, by an aggrieved Owner or Owners.
- (ii) **Recovery of Costs**. In the event of a violation by an Owner in any of the covenants, conditions or restrictions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board by an Owner, non-Owner resident or guest, the Association shall be entitled to recover from any of the Owner, non-Owner resident and guest the pre-litigation costs and attorney fees incurred in obtaining their compliance. In any proceeding arising because of an alleged default by any Owner, non-Owner resident or guest, the Association, if successful, shall be entitled to recover from any of the Owner, non-Owner and guest the costs of the proceeding and such reasonable attorney's fees (not limited to statutory fees) as may be determined by the Court, but in no event shall any Owner be entitled to recover such attorney's fees. The Association, if successful, shall also be entitled to recoup its costs and attorney's fees incurred in defending any claim, counterclaim or other matter from any of the Owner, non-Owner resident or guest asserting the claim, counterclaim or other matter.
- (iii) **Removal and Abatement**. The violation by an Owner, non-Owner resident or guest in any of the covenants, conditions or restrictions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board shall 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 this Declaration, the Bylaws or any such rule or regulation; provided, that judicial proceedings shall be instituted before items of construction are altered or demolished pursuant to this subsection. The Association shall have no liability to any Owner arising out of the exercise of this removal and abatement power.

(iv) Assessment of Fines. The violation by any Owner, or his tenant or any non-Owner occupant of his Unit, of any of the provisions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board, in addition to the rights set forth above, shall be grounds for assessment by the Association of a monetary fine for such violation against said Owner. No fine may be assessed unless the rules and regulations establishing such fine have first been duly adopted by the Board and notice thereof given to all Co-owners in the same manner required hereby. Thereafter, fines may be assessed only upon notice to the offending Owner and an opportunity for such Owner to appear before the Board no less than seven (7) days from the date of the notice and offer evidence in defense of the alleged violation. Upon finding an alleged violation after an opportunity for hearing has been provided, the Board may levy a fine in such amount as it in its discretion, deems appropriate, and/or as is set forth in the rules and regulations establishing the fine procedure. All fines duly assessed may be collected in the same manner as are annual, additional and special assessments under this Declaration.

(b) Non-Waiver of Right. The failure of the Association or of any Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or of any such Owner to enforce such right, provision, covenant or condition in the future.

(c) Cumulative Rights, Remedies and Privileges. All rights, remedies and privileges granted to the Association or any Owner(s) pursuant to any terms, provisions, covenants or conditions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board 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.

(d) Owner Right to Enforce. An Owner may maintain an action against the Association and its officers and directors to compel such persons to enforce the terms and provisions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board. An

PROPOSED DATED JUNE 6, 2001

Owner may maintain an action against another Owner for injunctive relief or for damages or any combination thereof for noncompliance with the Act or any of the terms and provisions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board.

**Section 8.4 Insurance Proceeds.** All proceeds of any insurance maintained with respect to any assets of the Association and the Commons 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 person or entities.

**Section 8.5 Severability.** The invalidation of any 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.

**Section 8.6 Notices.** Each Owner shall file the correct mailing address of such Owner with Developer and shall promptly notify Developer in writing of any subsequent change of address. Developer shall maintain a file of such addresses and make it available to the Association. A written or printed notice, deposited in the United States Mail, postage prepaid and addressed to any Owner at his last known address shall be sufficient and proper notice to such Owner, wherever notices are required in this Declaration.

**Section 8.7 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 8.8 Execution of Additional Documents.** Each of the Owners, at no expense to himself, hereby agrees, at the request of Developer or the Association, to perform such further acts and execute all such further documents as may be required or desirable in the reasonable discretion of Developer or the Association, to carry out the purposes of this Declaration.

**Section 8.9 Effective Date; Approval.** This Declaration may be recorded by the Developer, and shall be effective upon the date of its recording by the Oakland County Register of Deeds.

**Section 8.10. Prior Declarations Superseded.** Upon recordation, this Declaration shall supersede and replace the Phase I Declaration and the Phase III Declaration, which thereafter shall have no effect, but the Phase I Supplemental Declaration and the Phase II Supplemental Declaration shall continue unaffected hereby.

of this Declaration, the Bylaws or any rule or regulation promulgated by the Board. An Owner may maintain an action against another Owner for injunctive relief or for damages or any combination thereof for noncompliance with the Act or any of the terms and provisions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board.

**Section 8.4 Insurance Proceeds.** All proceeds of any insurance maintained with respect to any assets of the Association and the Commons 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 person or entities.

**Section 8.5 Severability.** The invalidation of any 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.

**Section 8.6 Notices.** Each Owner shall file the correct mailing address of such Owner with Developer and shall promptly notify Developer in writing of any subsequent change of address. Developer shall maintain a file of such addresses and make it available to the Association. A written or printed notice, deposited in the United States Mail, postage prepaid and addressed to any Owner at his last known address shall be sufficient and proper notice to such Owner, wherever notices are required in this Declaration.

**Section 8.7 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 8.8 Execution; Additional Documents.** This Declaration may be executed with counterpart execution pages, each of which shall be deemed an original and a part of a single document. Each of the Owners, at no expense to himself, hereby agrees, at the request of Developer or the Association, to perform such further acts and execute all such further documents as may be required or desirable in the reasonable discretion of Developer or the Association, to carry out the purposes of this Declaration.

**Section 8.9 Effective Date; Approval.** This Declaration may be recorded by the Developer, and shall be effective upon the date of its recording by the Oakland County Register of Deeds.

**Section 8.10. Prior Declarations Superseded.** Upon recordation, this Declaration shall supersede and replace the Phase 1 Declaration and the Phase III

Declaration, which thereafter shall have no effect, but the Phase I Supplemental Declaration and the Phase II Supplemental Declaration shall continue unaffected hereby.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand  
this \_\_\_\_\_ day of June, 2001.

**WITNESSED:**

DEVELOPER:  
TRINITY/BOSCO PARTNERSHIP,  
a Michigan co-partnership  
By: Trinity Novi Development,  
a Michigan corporation  
General Partner

By: Richard A. Ives, Vice President

JOHN RICHARDS DEVELOPMENT  
CORPORATION  
a Michigan corporation

By: \_\_\_\_\_

#### ACKNOWLEDGMENTS

STATE OF MICHIGAN )  
COUNTY OF MACOMB )  
SS.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ th day of \_\_\_\_\_ 2001, by Richard A. Ives, who is the Vice President of Trinity Novi Development, a Michigan corporation, which is a general partner of TRINITY/BOSCO PARTNERSHIP, a Michigan co-partnership, on behalf of the co-partnership.

Notary Public, Macomb County, Michigan  
My Commission Expires: 9-24-2004

PROPOSED DATED JUNE 6, 2001

STATE OF MICHIGAN )  
COUNTY OF )  
 )SS.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2001, by Scott Seidell, who is the Vice President-Finance of JOHN RICHARDS DEVELOPMENT CORPORATION, a Michigan corporation, on behalf of the corporation.

Notary Public, \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

PROPOSED DATED JUNE 6, 2001

**CONSENT BY MORTGAGEE**

First Federal of Michigan, a federal bank, whose address is 1001 Woodward Avenue, Detroit, Michigan 48226-1967, Mortgagee under that certain Mortgage dated August 31, 1994, executed and delivered by Trinity-Bosco Partnership, a Michigan co-partnership, as Mortgagor, and recorded in Liber 14966, Page 363, Oakland County Records, with respect to unreleased portions of the Property, consents to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions.

FIRST FEDERAL OF MICHIGAN  
the Michigan Operating Name of  
Charter One Bank, F.S.B.  
a federally chartered savings bank

By: \_\_\_\_\_

Kevin G. Ball

Its: Vice President and Manager

STATE OF MICHIGAN      )  
                                    )  
                                    )SS.  
COUNTY OF WAYNE      )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2001,  
by \_\_\_\_\_, the \_\_\_\_\_ of First  
Federal Bank, a Federal banking corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

WHEN RECORDED, RETURN TO:

Meisner & Associates, P.C.  
30200 Telegraph Road  
Suite 467  
Bingham Farms, MI 48025-4506

PROPOSED DATED JUNE 6, 2001

EXHIBIT A  
LEGAL DESCRIPTION

AUTUMN PARK SUB'N NO.1

AUTUMN PARK SUB'N NO. 1, PART OF THE SOUTHWEST 1/4 OF SECTION 28, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN: COMMENCING AT THE SOUTHWEST CORNER OF SECTION 28, TOWN 1 NORTH, RANGE 8 EAST, AND PROCEEDING THENCE SOUTH 89 DEGREES 40 MINUTES 14 SECONDS EAST, 33.00 FEET ALONG THE SOUTH LINE OF SECTION 28, ALSO BEING THE CENTERLINE OF NINE MILE ROAD (66.00' WIDE); THENCE ON A LINE 33.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF SECTION 28, NORTH 00 DEGREES 16 MINUTES 09 SECONDS EAST, 33.00 FEET TO THE POINT OF BEGINNING. THENCE CONTINUING ALONG SAID LINE NORTH 00 DEGREES 16 MINUTES 09 SECONDS EAST, 1,844.51 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 51 SECONDS EAST, 329.00 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 09 SECONDS WEST, 233.20 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 51 SECONDS EAST, 33.00 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 09 SECONDS WEST, 221.42 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 51 SECONDS EAST, 97.24 FEET; THENCE SOUTH 35 DEGREES 30 MINUTES 49 SECONDS EAST, 59.03 FEET; THENCE NORTH 54 DEGREES 29 MINUTES 11 SECONDS EAST, 57.10 FEET; THENCE SOUTH 71 DEGREES 54 MINUTES 19 SECONDS EAST, 529.75 FEET; THENCE SOUTH 49 DEGREES 07 MINUTES 57 SECONDS WEST, 102.39 FEET; THENCE SOUTH 38 DEGREES 19 MINUTES 10 SECONDS EAST, 220.00 FEET; THENCE SOUTH 51 DEGREES 40 MINUTES 50 SECONDS WEST, 39.26 FEET; THENCE SOUTH 38 DEGREES 19 MINUTES 10 SECONDS EAST, 159.18 FEET; THENCE SOUTH 45 DEGREES 26 MINUTES 39 SECONDS WEST, 99.59 FEET; THENCE SOUTH 51 DEGREES 40 MINUTES 50 SECONDS WEST, 96.00 FEET; THENCE SOUTH 38 DEGREES 19 MINUTES 10 SECONDS EAST, 59.25 FEET TO A POINT ON THE BOUNDARY OF "SOUTHWYCK OF NOVI", A SUBDIVISION RECORDED IN LIBER 223, PLATS, PAGES 23, 24, 25 & 26, OAKLAND COUNTY PLAT RECORDS; THENCE ALONG SAID BOUNDARY NORTH 89 DEGREES 40 MINUTES 14 SECONDS WEST, 98.81 FEET, AND SOUTH 01 DEGREES 12 MINUTES 46 SECONDS WEST, 649.81 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SAID NINE MILE ROAD (66.00 FEET WIDE); THENCE ALONG SAID LINE PARALLEL TO AND 33.00 FEET NORTH OF THE SOUTH LINE OF SECTION 28, NORTH 89 DEGREES 40 MINUTES 14 SECONDS WEST, 954.87 FEET TO THE POINT OF BEGINNING. CONSISTING OF 56 LOTS NUMBERED 1 THROUGH 56, BOTH INCLUSIVE, AND THREE PRIVATE PARKS, AND CONTAINING 34.864 ACRES.

EXHIBIT A  
LEGAL DESCRIPTION  
(continued)

AUTUMN PARK SUB'N NO. 2

AUTUMN PARK SUBDIVISION NO. 2, PART OF THE SOUTHWEST 1/4 OF SECTION 28, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 28, TOWN 1 NORTH, RANGE 8 EAST, AND PROCEEDING THENCE ON THE WEST LINE OF SAID SECTION 28, NORTH 00 DEGREES 16 MINUTES 09 SECONDS EAST, 1,877.48 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 51 SECONDS EAST, 362.00 FEET TO THE POINT OF BEGINNING(LAST DESCRIBED COURSE BEING IN PART ON THE NORTHERLY BOUNDARY OF "AUTUMN PARK SUB'N NO. 1", ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 239, PLATS, PAGES 34-36, BOTH INCLUSIVE, OAKLAND COUNTY RECORDS). THENCE CONTINUING SOUTH 89 DEGREES 43 MINUTES 51 SECONDS EAST, 407.61 FEET; THENCE NORTH 81 DEGREES 09 MINUTES 23 SECONDS EAST, 60.00 FEET; THENCE ON A CURVE TO THE LEFT AND CONCAVE TO THE NORTHEAST, RADIUS 300.00 FEET, CENTRAL ANGLE 13 DEGREES 02 MINUTES 46 SECONDS (CHORD OF SAID CURVE BEARS SOUTH 15 DEGREES 22 MINUTES 00 SECONDS EAST, 68.16 FEET], A DISTANCE OF 68.31 FEET; THENCE SOUTH 82 DEGREES 35 MINUTES 21 SECONDS EAST, 181.28 FEET; THENCE SOUTH 06 DEGREES 01 MINUTES 51 SECONDS WEST, 102.23 FEET; THENCE SOUTH 86 DEGREES 04 MINUTES 51SECONDS EAST, 86.61 FEET TO POINT "A", BEING AN INTERMEDIATE TRAVERSE POINT; THENCE SOUTH 89 DEGREES 11 MINUTES 42 SECONDS EAST, 182.00 FEET TO THE WATERS' EDGE OF AN IMPOUNDMENT OF THE THORNTON CREEK; THENCE ALONG THE WATERS' EDGE OF SAID IMPOUNDMENT SOUTHWEST, EASTERLY AND NORTHERLY TO A POINT WHICH IS NORTH 89 DEGREES 11 MINUTES 42 SECONDS WEST, 99 FEET FROM POINT "B" ON THE INTERMEDIATE TRAVERSE LINE, WHICH POINT "B" IS LOCATED THE FOLLOWING COURSES ALONG THE INTERMEDIATE TRAVERSE LINE WITHIN ARGYLE PARK SOUTH OF "AUTUMN PARK SUBDIVISION NO. 2" FROM POINT "A": SOUTH 62 DEGREES 40 MINUTES 30 SECONDS EAST, 271.98 FEET; AND SOUTH 88 DEGREES 53 MINUTES 37 SECONDS EAST, 376.59 FEET; AND NORTH 40 DEGREES 16 MINUTES 49 SECONDS EAST, 159.90 FEET TO POINT "B"; THENCE SOUTH 89 DEGREES 11 MINUTES 42 SECONDS EAST, 140.19 FEET; THENCE SOUTH 00 DEGREES 48 MINUTES 18 SECONDS WEST, 1,002.89 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 14 SECONDS WEST, 858.27 FEET TO A POINT ON THE BOUNDARY OF SAID "AUTUMN PARK SUBDIVISION NO. 1"; THENCE ON SAID BOUNDARY NORTH 38 DEGREES 19 MINUTES 10 SECONDS WEST, 59.25 FEET, AND NORTH 51 DEGREES 40 MINUTES 50 SECONDS EAST, 96.00 FEET; THENCE NORTH 45 DEGREES 26 MINUTES 39 SECONDS EAST, 99.59 FEET; THENCE NORTH 38 DEGREES 19 MINUTES 10 SECONDS WEST, 159.18 FEET; THENCE NORTH 51 DEGREES 40 MINUTES 50 SECONDS EAST, 39.26 FEET; THENCE NORTH 38

EXHIBIT A  
LEGAL DESCRIPTION  
(continued)

**AUTUMN PARK SUB'N NO. 2**  
(continued)

DEGREES 19 MINUTES 10 SECONDS WEST, 220.00 FEET; THENCE NORTH 49 DEGREES 07 MINUTES 57 SECONDS EAST, 102.39 FEET; THENCE NORTH 71 DEGREES 54 MINUTES 19 SECONDS WEST, 529.75 FEET; THENCE SOUTH 54 DEGREES 29 MINUTES 11 SECONDS WEST, 57.10 FEET; THENCE NORTH 35 DEGREES 30 MINUTES 49 SECONDS WEST, 59.03 FEET; THENCE NORTH 89 DEGREES 43 MINUTES 51 SECONDS WEST, 97.24 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 09 SECONDS EAST, 221.42 FEET; THENCE NORTH 89 DEGREES 43 MINUTES 51 SECONDS WEST, 33.00 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 09 SECONDS EAST, 233.20 FEET TO THE POINT OF BEGINNING. CONSISTING OF 39 LOTS NUMBERED 57 THROUGH 95, BOTH INCLUSIVE, AND FOUR PRIVATE PARKS.

**AUTUMN PARK SUB'N NO. 3**

AUTUMN PARK SUB'N NO. 3, PART OF THE SOUTHWEST 1/4 OF SECTION 28, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST 1/4 CORNER OF SECTION 28, TOWN 1 NORTH, RANGE 8 EAST, AND PROCEEDING SOUTH 89 DEGREES 31 MINUTES 14 SECONDS EAST, 33.00 FEET ALONG THE EAST AND WEST 1/4 LINE OF SECTION 28 TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST AND WEST 1/4 LINE OF SECTION 28, AND IN PART ALONG THE SOUTHERLY LINE OF "BROADMOOR PARK SUB'N NO. 2", RECORDED IN LIBER 262, PLATS, PAGES 20-24, BOTH INCLUSIVE, AND "BROADMOOR PARK SUB'N NO. 1", RECORDED IN LIBER 244, PLATS, PAGES 38-45, BOTH INCLUSIVE, AND "BROADMOOR PARK SUB'N NO. 3", RECORDED IN LIBER 265, PLATS, PAGES 34-40, BOTH INCLUSIVE, SOUTH 89 DEGREES 31 MINUTES 14 SECONDS EAST, 1941.00 FEET; THENCE SOUTH 00 DEGREES 48 MINUTES 18 SECONDS WEST, 958.05 FEET, TO A POINT ON THE BOUNDARY OF "AUTUMN PARK SUB'N NO.2", RECORDED IN LIBER 242, PLATS, PAGES 5 THROUGH 9, BOTH INCLUSIVE, OAKLAND COUNTY RECORDS; THENCE ALONG THE BOUNDARY OF SAID "AUTUMN PARK SUB'N NO.2", NORTH 89 DEGREES 11 MINUTES 42 SECONDS WEST, 140.19 FEET TO POINT "A", BEING AN INTERMEDIATE TRAVERSE POINT; AND NORTH 89 DEGREES 11 MINUTES 42 SECONDS WEST, 85 FEET TO THE WATERS' EDGE OF AN IMPOUNDMENT OF THE

EXHIBIT A  
LEGAL DESCRIPTION  
(continued)

AUTUMN PARK SUB'N NO. 3  
(continued)

THORNTON CREEK; THENCE ALONG THE WATERS' EDGE OF SAID IMPOUNDMENT NORTHERLY, WESTERLY AND SOUTHERLY TO A POINT ON THE BOUNDARY OF SAID "AUTUMN PARK SUB'N NO. 2" WHICH IS SOUTH 89 DEGREES 11 MINUTES 42 SECONDS EAST, 60 FEET FROM POINT "B" ON THE INTERMEDIATE TRAVERSE LINE, WHICH POINT "B" IS LOCATED THE FOLLOWING COURSES ALONG THE INTERMEDIATE TRAVERSE LINE WITHIN ARGYLE PARK NORTH OF "AUTUMN PARK SUB'N NO. 3" FROM POINT "A": NORTH 33 DEGREES 48 MINUTES 29 SECONDS WEST, 518.33 FEET; AND NORTH 30 DEGREES 31 MINUTES 14 SECONDS WEST, 176.82 FEET; AND SOUTH 50 DEGREES 35 MINUTES 21 SECONDS WEST, 134.99 FEET; AND SOUTH 29 DEGREES 12 MINUTES 05 SECONDS WEST, 186.98 FEET; AND SOUTH 67 DEGREES 06 MINUTES 46 SECONDS WEST, 158.46 FEET; AND SOUTH 00 DEGREES 23 MINUTES 56 SECONDS WEST, 262.32 FEET TO POINT "B"; THENCE ALONG THE BOUNDARY OF SAID "AUTUMN PARK SUB'N NO. 2", NORTH 86 DEGREES 04 MINUTES 51 SECONDS WEST, 86.61 FEET; AND NORTH 06 DEGREES 01 MINUTES 51 SECONDS EAST, 102.23 FEET; AND NORTH 82 DEGREES 35 MINUTES 21 SECONDS WEST, 181.28 FEET; AND ALONG A CURVE TO THE RIGHT, RADIUS 300.00 FEET, CENTRAL ANGLE 13 DEGREES 02 MINUTES 46 SECONDS, (CHORD OF SAID CURVE BEARS NORTH 15 DEGREES 22 MINUTES 00 SECONDS WEST, 68.16 FEET), A DISTANCE OF 68.31 FEET; AND SOUTH 81 DEGREES 09 MINUTES 23 SECONDS WEST, 60.00 FEET; THENCE IN PART ALONG THE BOUNDARY OF SAID "AUTUMN PARK SUB'N NO. 2", AND "AUTUMN PARK SUB'N NO. 1", RECORDED IN LIBER 239, PLATS, PAGES 34 THROUGH 36, BOTH INCLUSIVE, OAKLAND COUNTY RECORDS, NORTH 89 DEGREES 43 MINUTES 51 SECONDS WEST, 736.61 FEET; THENCE ON A LINE 33.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF SECTION 28, ALSO BEING THE EAST RIGHT-OF-WAY LINE OF BECK ROAD (66.00 FEET WIDE), NORTH 00 DEGREES 16 MINUTES 09 SECONDS EAST, 771.18 FEET TO THE POINT OF BEGINNING. CONSISTING OF 41 LOTS NUMBERED 96 THROUGH 136, BOTH INCLUSIVE, AND FOUR PRIVATE PARKS.