

DECLARATION OF CONVENANTS, CONDITIONS AND RESTRICTIONS
NAME OF PROPERTY OWNER OR DEVELOPMENT: _____
LOCATION OF PROPERTY: _____

I _____ hereby declare this _____ day of _____, 2005 that I am the owner, in fee simple, of certain real property located in Brooks Township; Newaygo County, Michigan, the legal description of which is attached as Exhibit (A).

PURPOSE. For the purpose of ensuring uniformity of construction and use, enhancing and protecting the value and promoting mutual attractiveness and desirability of the area, the owner of all of the real property described in Exhibit (A) and each part shall be held, sold and conveyed only subject to the following easements, covenants, conditions and restrictions, which shall constitute covenants running with the land (from the date of this declaration) and shall be binding on all parties having any right, title or interest in the property described in Exhibit (A) or any part of, their heirs, successors and assigns, and shall inure to the benefit of each owner. It is the owners' intention that these restrictions fall within the constitutional limitations and are not against public policy.

- A. The legal description and survey (Exhibit A) of the real estate affected are attached to and incorporated into this Declaration.
- B. The real estate affected consists of _____ acres of land. Exhibit (A) indicates that the property is proposed to be developed to create _____ individual lots all located on a common private road. The private road is called _____ Private and has been approved by the Newaygo County Road Commission. The Road Commission Application and Permit is attached as Exhibit (B) (not included).
- C. The Parcels identified as Lots: _____ (lot numbers or letters) are in need of perpetual easement rights affording adequate access.
- D. It is essential to the value of the Parcels that the improved portion of the Easement (the "Access Road") be maintained in good and proper manner.
- E. The owners of Parcels _____ (lot numbers or letters) (the "Parcel Owners") must share equally in the cost of maintaining the Access Road serving the Parcels, so that each Parcel bears an equitable share of the cost.
- F. A perpetual easement appurtenant is hereby established across, over and through the property described in Exhibit (A) for the purpose of ingress to and egress from Parcels _____ (parcel numbers or letters) inclusive, and for the construction, maintenance and repair (including, reconstruction) of _____ (the "Access Road") and utilities.
- G. The Easement burdens the land it passes across, over and through and shall benefit and run with Parcels _____ (parcel numbers or letters) inclusive.
- H. The Easement shall also benefit any utility company or municipality providing utility services in the vicinity where it is located.
- I. For convenience, the easement, named _____ Private shall be called the "Road" in the rest of this Declaration.

Section 2

Repairs, Maintenance and Capital Improvements of Road

- A. The Roads shall be used as a driveway for vehicular traffic and shall be properly maintained in good condition for this purpose.
- B. The construction, improvements, repairs, maintenance and any reconstruction of the Roads shall comply with and meet all standards and requirements of the Brooks Township "Private Road Standards" as found in the Brooks Township Zoning Ordinance, as these specifications are amended from time to time. A copy of the Township Private Road Standards are attached as Exhibit C (not included).
- C. When a new Parcel Owner begins construction of his or her home, the costs of repair or maintenance to bring the Road back to Brooks Township specifications shall be the sole responsibility of the new parcel owner during the time when heavy equipment uses the roads to build his or her home.
- D. When general repairs and/or maintenance appear to be necessary, the Parcel Owners may undertake such repairs or maintenance anywhere along the Road upon the affirmative vote of a majority of the Parcel Owners. The total cost of the particular maintenance or repair items being undertaken and the Parcel Owners or other person assigned or contracted with to perform them must also be approved by a majority vote. The Parcel Owners shall share in the costs of any approved maintenance, repair or capital improvement according to the formula established later in this Declaration.
- E. Capital improvements (such as asphaltting) of the Roads may be undertaken by the Parcel Owners upon the affirmative vote of a majority of the Parcel Owners. If a majority of the property owners vote for the improvement, then all property owners shall pay equally the costs.
- F. Capital improvements may also be undertaken upon the affirmative vote of fewer than a majority of the Parcel Owners, but no Parcel Owner shall be responsible for the cost of any capital improvements to the Road not approved by that Parcel Owner, when less than a majority vote of the Parcel Owners elect to carry out such improvements. The property owners voting to undertake a Capital Improvement with less than a majority vote may apportion the cost as they agree in writing for that particular project.
- G. When property owners elect to carry out Capital Improvements with less than a majority vote of the property owners the exact nature of the capital improvements, their cost and any contractor employed to carry them out must be approved by a majority of those Parcel Owners undertaking the improvements.
- H. The Parcel Owners grant to one another reasonable rights of access and passage over their respective Parcels for the purpose of conducting maintenance and repair of the Easement Premises or installing capital improvements.
- I. The Parcel Owners may designate one (1) or more parcel owner(s) to act on their behalf, in contracting for and supervising the approved maintenance, repair or capital improvement. If one or more designated owners initially pay (on behalf of the owners) all reasonable costs associated with the project, they will be entitled to equal reimbursement by each of the other

Parcel Owners. The Parcel Owner(s) actually incurring such costs will promptly bill the others for their share. The others will pay the statement rendered within ten (10) days of receipt. No Parcel Owner will be entitled to reimbursement for the cost of any repair or maintenance undertaken without the prior majority approval of the approving owners.

- J. A Parcel Owner shall be personally liable for costs associated with the repair and maintenance of or capital improvements to the Easement Premises. All costs associated with the repair and maintenance of or capital improvements to the Road shall be paid prior to the sale or other conveyance of one hundred (100) percent of his or her interests in the Parcel owned by him or her.
- K. If a Parcel Owner fails to pay his or her respective share of costs incurred within thirty (30) days after receipt of a statement, the amount of the statement, together with interest at the maximum rate allowed by law, from the date the costs were incurred plus any attorneys' fees necessary to collection, shall automatically become a continuing lien against the parcel of the defaulting Parcel Owner. This lien will be superior to all other liens or claims against the parcel except a purchase-money first mortgage. Each Parcel Owner's obligation to pay his or her share of the costs will be an enforceable obligation of the Parcel Owner. Upon the affirmative vote of all Parcel Owners except a defaulting Parcel Owner who has not paid his or her share of costs, the other Parcel Owners who have not been reimbursed may record notice of a claim of lien against the Parcel owned by the defaulting Parcel Owner and thereafter pursue a judicial action to foreclose on the lien, subject only to any institutional or purchase-money first mortgage, in any manner now or in the future permitted by law or equity with respect to mortgages. Proceeds received at such a sale shall be distributed first to pay the lien being foreclosed upon, plus all costs and expenses, interest, attorneys' fees and any surplus shall be distributed in accordance with the priorities established by applicable law. The reimbursed Parcel Owners may, in addition to or instead of foreclosure, obtain a personal judgment against the defaulting Parcel Owner.
- L. The Parcel Owners shall work together to coordinate their repair and maintenance activities so as to make the repairs and maintenance of the Road as economical as possible and to minimize interference with the Parcel Owners' use of the Road. To the extent reasonably possible or upon the request of the other Parcel Owners, a Parcel Owner performing any repairs, maintenance or capital improvements will obtain competitive bids for the purpose of cost comparison. The Parcel Owners will be provided with reasonable notice before the undertaking of any repair, maintenance or capital improvement. All work will be performed with reasonable dispatch.
- M. The Parcel Owners will exercise reasonable care in their use of the Road so as not to cause more than normal wear and tear on the Road. Any damage to the Road caused by a Parcel Owner or his or her guests or invitees shall promptly be repaired by that Parcel Owner at his or her sole expense. If a Parcel Owner fails to repair any damage to the Easement Premises caused by him or her or his or her guests or invitees within thirty (30) days of receipt of written request from the Parcel Owners, another Parcel Owner may do so, and the cost of doing so will be the sole responsibility of the Parcel Owner responsible for the damage, to be billed, paid and collected as set forth in this Declaration.

Section 3

Indemnification and Insurance

- A. The Parcel Owners agree to equally assume liability for death or injury to any person using the Easement unless such injury or damage arises from the acts or omissions of less than all of the Parcel Owners in which case the Parcel Owner or Owners committing the acts or omissions giving rise to such injury or damage shall assume liability for such injury or damage and shall hold the other Parcel Owner or Owners harmless from any claim, action, liability, damage, or expense, including attorneys' fees, resulting from such injury or damage.
- B. Each Parcel Owner shall obtain and keep in force public liability insurance of at least One Hundred Thousand dollars (\$100,000.00) with respect to any accident or casualty occurring on the Easement Premises or in connection with the use of the Easement. Such insurance shall include a mutual waiver of subrogation provision, if such a provision is reasonably available from an insurer providing homeowner's insurance in the market area, with regard to any injury or damage covered by the policy which occurs on the Easement Premises or in connection with the use of the Easement.

Section 4

Cost Sharing Formula

- A. The costs for repair, maintenance, capital improvements and reconstruction of the Road shall be shared equally by the Parcel Owners

Section 5

Voting

- A. If a Parcel is owned by more than one person, all the owners of a Parcel will collectively be referred to as the Parcel Owner, and will be entitled to only one collective vote (i.e., each Parcel represents one vote in the matters covered by this Declaration).

Witnesses

Property Owner

_____ The owner in fee simple of this property who is personally known to me has appeared before me and executed this Declaration of Covenants, Conditions and Restrictions on this ____ day of _____, 2005

Notary Public
My Commission Expires: