

## **Consolidated Master Deed for Empire Hills Homeowners Association Consolidated as of May, 2017**

This document represents the working Version of the Master Deed (consolidated for this purpose). This document has not been approved by the membership nor has it been filed with Leelanau County. It is being used to incorporate the various amendments to the Master Deed into the original, producing one easier to use document. This updated version includes amendments one (1) and two (2) [amendments 3 – 6 involve the Condominium By-Laws (exhibit A) not the Master Deed].

Every effort has been made to produce an accurate consolidated document true to the original filed documents, however, if there are any discrepancies between this unfiled document and the filed documents, the filed documents take precedence.

A “Road Map” for this Consolidation is available as a separate document in this section of the website stating which documents contain the current version of any section or paragraph.

Also, for all development drawings (exhibit B to the Master Deed), please refer to the original filed documents, i.e. Original Master Deed Exhibit B, Amendment one, and Amendment two.

**MASTER DEED**

**FOR**

**EMPIRE HILLS**

**MASTER DEED**, Made as of this 8th day of June , 1999, by McKEOUGH LAND COMPANY, INC., an Illinois corporation duly qualified to transact business in the State of Michigan, of 820 South Union, Traverse City, Michigan 49684 (hereinafter referred to as the "Developer") and amended May 19, 2000, August 22, 2002 and November 2, 2011; [and October 26, 2013 amendment 4 not yet filed].

**WITNESSETH:**

WHEREAS, the Developer is the owner of lands herein described and desires to establish the same together with the appurtenances thereto as a condominium project under the provisions of Act 59 of the Public Acts of 1978, as amended, by recording this Master Deed together with the Condominium Bylaws attached hereto as Exhibit "A" and the Condominium Subdivision Plans attached hereto as Exhibit "B", both of which are incorporated herein by reference and made a part hereof.

**NOW, THEREFORE**, the Developer does hereby establish **EMPIRE HILLS** by recording of this Master Deed as a condominium project and does declare that **EMPIRE HILLS**, hereinafter referred to as the "Condominium", shall be henceforth held, conveyed, encumbered, leased, occupied, improved and in any other manner utilized, subject to the provisions of said Act and to the covenants, conditions, restrictions, uses, limits and affirmative obligations set forth in this Master Deed and Exhibits "A" and "B" hereunder, all of which shall be deemed to run with the land. In furtherance of the establishment of said Condominium, it is provided as follows:

**I.**

**TITLE AND NATURE**

The Condominium Project shall be known as EMPIRE HILLS, Leelanau County Condominium Subdivision Plan No. 84. The Condominium Project is established in accordance with Act 59 of the Public Acts of 1978, as amended. The bylaws attached hereto as Exhibit "A" are hereby incorporated herein by reference. The Condominium Subdivision Plans attached hereto as Exhibit "B" are hereby incorporated herein by reference.

II.

**LEGAL DESCRIPTION**

The land on which the Condominium Project is located and which is established by this Master Deed is situated in the Township of Empire and Village of Empire, County of Leelanau and State of Michigan, and described as follows, viz.:

Part of Section 19, Town 28 North, Range 14 West, Village of Empire, Leelanau County, Michigan, more fully described as follows:

BEGINNING at the South 1/4 corner of said Section 19; thence N 87°20'32" W, 850.04 feet along the South line of said Section 19; thence N 03°32'00" E, 665.00 feet; thence S 87°08'00" E, 185.04 feet; thence N 03°32'00" E, 660.00 feet; thence S 87°08'00" E, 665.00 feet along the centerline of Front Street along South 1/8 line of said Section 19; thence N 03°32'00" E, 452.84 feet along the North and South 1/4 line of said Section 19; thence N 80°56'52" E, 648.60 feet; thence S 03°32'24" W, 407.25 feet; thence S 60°53'34" E, 161.14 feet; thence S 77°08'42" E, 150.65 feet; thence S 52°22'58" E, 48.66 feet; thence S 87°06'01" E, 363.19 feet; thence S 04°05'54" W, 1370.43 feet along the East 1/8 line of said Section 19; thence N 87°23'24" W, 1317.10 feet along said South section line to the POINT OF BEGINNING. Containing 71.97 acres. Subject to the rights of way of M-22, Front Street and Bennett Street over portions thereof.

Subject to all easements, reservations, exceptions, conditions and restrictions contained in prior conveyances, if any, and further subject to the following. The Developer hereby reserves and excepts all oil, gas and minerals unto itself; Developer covenants that there shall be no drilling operations on the Premises hereinabove described.

**THE ABOVE-DESCRIBED PREMISES ARE CONVEYED SUBJECT TO THE RESTRICTIVE COVENANTS STATED HEREINAFTER IN ARTICLE VIII.**

III.

**DEFINITIONS**

The following terms, whenever utilized in this Master Deed, Condominium Bylaws, Articles of Incorporation, Bylaws of Association of Co-Owners, Purchase Agreement, instruments of conveyance including amendments to Master Deed, and in any other document or instrument without limitation shall be defined as follows, viz.:

A. **The Act** means the Michigan Condominium Act, being Act No. 59 of the Public Acts of 1978 as amended.

B. **Association** shall mean the person designated in the condominium documents to administer the Condominium Project.

C. **Condominium Bylaws** means Exhibit "A" hereto, being the Bylaws setting forth the substantive rights and obligations of the Co-Owners and required by the Act to be recorded as part of the Master Deed.

D. **Consolidating Master Deed** means the final amended Master Deed which shall describe the Condominium as a completed Condominium Project and shall reflect the entire land area added to or removed from the Condominium from time to time and/or the results of conversion of the Condominium from time to time under Article X, Article XI and/or Article IX, respectively hereof, and all units and common elements therein, and which shall express percentages of value pertinent to each unit as finally readjusted. Such consolidating Master Deed, when recorded in the office of the Leelanau County Register of Deeds, shall supersede any previously recorded Master Deed for the Condominium.

E. **Lot or Unit** shall each mean the space within the boundaries of a single unit in the Condominium as such area and space may be described on Exhibit "B" hereto, and shall have the same meaning as the term "unit" is defined in the Act.

F. **Condominium Documents** wherever used means and includes this Master Deed and Exhibits "A" and "B" hereto, the Articles of Incorporation, Bylaws and the Rules and Regulations, if any, of the Association.

G. **Condominium Project, Condominium or Project** means **EMPIRE HILLS** as a condominium project established in conformity with the provisions of the Act.

H. **Condominium Subdivision Plan** means Exhibit "B" hereto.

I. **Co-Owner** means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who or which owns one or more units in the Condominium Project. A land contract vendee of a unit in this Project shall be the Co-Owner for all purposes relating to the Project. The term "owner", wherever used, shall be synonymous with the term "Co-Owner".

J. **Condominium Premises** means and includes the land and the buildings, all improvements and structures thereof, and all easements, rights and appurtenances belonging to the Condominium Project and described in Article II above.

K. **Common Elements** where used without modification shall mean both the general and limited common elements described in Article IV hereof.

L. **Percentage of Value** means the percentage assigned to each individual condominium unit in the condominium Master Deed.

M. **Developer** is McKEOUGH LAND COMPANY, INC., an Illinois corporation duly qualified to transact business in the State of Michigan.

N. **Architectural Review Committee** shall mean the committee appointed in accordance with the provisions of Article VI, Sections (1) through (6) of the Condominium Bylaws.

O. **Improvement** shall mean every building of any kind, fence or wall, or other structure or recreational facility which may be erected or placed within any unit, any drainage system that may be established thereon, any driveway or landscaping thereon, or the water or septic systems or any part thereof within any unit.

P. **Co-owner in Good Standing** shall mean a Co-owner whose association dues are current and who is not otherwise in default to the association and authorized to vote.

Terms not defined herein, but defined in the Act, shall carry the meaning given them in the Act unless the context clearly indicates to the contrary. Whenever any reference herein is made to one gender, the same shall include a reference to any and all genders where such a reference would be appropriate; similarly, whenever a reference is made herein to the singular, a reference shall also be included to the plural where such a reference would be appropriate.

#### IV.

#### COMMON ELEMENTS

The common elements of the Project described in Exhibit "B" attached hereto and the respective responsibilities for maintenance, decoration, repair or replacement thereof are as follows:

A. The general common elements are:

1. The land described in Article II hereof, including open space areas and the ten (10) foot wide open space walkway, the recreational pathways within the open space areas, the well house, barn and bath/shower house located within the open space area, the stormwater retention areas located within the commons areas, the Project signage, the common lighting facilities (including by way of inclusion, the lines, meter, and fixtures) and all roadways, out-lots, and access easements, excepting the space within each unit boundary as shown on Exhibit "B" attached hereto.

2. Such other elements of the Project not herein designated as general or limited common elements which are not within the boundaries of a unit, and which are intended for common use or necessary to the existence, upkeep and safety of the Project.

B. The costs of maintenance, repair and replacement of all general common elements described above shall be borne by the Association. Notwithstanding the fact that stormwater retention areas as depicted on Exhibit "B" hereto are located within the boundaries of certain units, the costs of maintenance, repair and replacement of these facilities, whether located within the commons areas or within the boundaries of units, shall be borne by the Association.

C. The limited common elements consist of the common driveway areas located between units 10 and 11, units 12 and 13, units 35 and 36, units 38 and 39, and 68 and 69, respectively, as assigned to such lots on Exhibit "B" attached hereto and the ten (10) foot wide pathway adjacent to lots 19, 20, 21, 22, 24 and 25, as assigned to lots 20, 21, 22, 24 and 25 on Exhibit "B" attached hereto. The limited common element common driveway areas are designed to provide an area for the placement of a shared driveway for the benefit of the Co-Owners of said lots, respectively and to provide access to and from said lots, respectively for the benefit of the Co-Owners of said lots, respectively. The limited common element ten (10) foot wide pathway is designed to provide an area for pedestrian access to the Open Space for the benefit of the Co-Owners of lots 20, 21, 22, 24 and 25.

D. Any maintenance, repair or replacement (the cost of which is to be borne by the Co-Owner or Co-Owners) may be performed by or under the direction of the Association and the cost may be assessed against the responsible Co-Owner or Co-Owners as provided in the Condominium Bylaws.

E. No Co-Owner shall use his unit or the common elements in any manner inconsistent with the purposes of the Project or in any manner which will interfere with or impair the rights of any other Co-Owner in the use and enjoyment of his unit or the common elements.

## V.

### UNIT DESCRIPTION AND PERCENTAGE OF VALUE

A. Each unit in the Project is described in this paragraph with reference to the Subdivision and Site Plan of the Project attached hereto as Exhibit "B". Each unit shall include all that area and space contained within the boundary for each unit as shown on Exhibit "B" hereto. No Co-Owner shall be permitted to partition, split or otherwise subdivide a unit.

B. The percentage of value assigned to each unit is set forth in Subparagraph "D" below. The percentage of value assigned to each unit shall be determinative of the proportionate share of each respective Co-Owner in the expenses and proceeds of administration of the Association and in the common elements of the Condominium. At meetings of the Association, each respective Co-Owner shall have one vote for each Condominium unit owned when voting by number and one vote, the value of which equals the total of the assigned percentages of value for each Condominium unit owned, when voting by percentage of value. The total value of the Project is one hundred (100%) percent. The percentage of value allocated to each unit may be changed only with the unanimous consent of all of the Co-Owners expressed in an amendment to this Master Deed, duly approved and recorded except as provided in Articles IX, X and XI hereof.

C. The determination of the percentage of value which should be assigned was made after reviewing the comparative characteristics of each unit in the Project and concluding that location, size, value and allocable expenses of maintenance were the proper determining factors to be considered.

D. Each unit (with the exception of unit 80) shall be assigned an equal percentage of value; unit 80 shall be assigned a percentage of value equal to one-half of the other units i.e. units 1 through 79 shall each be assigned a  $1/79.5$ ths percentage of value and unit 80 shall be assigned a  $.5/79.5$ ths percentage of value.

**VI.**

**EASEMENTS**

There shall be easements to, through and over those portions of the land, structures, buildings, improvements, and walls in favor of the Association located within any lot for the installation and placement of and/or continuing maintenance and repair of all utilities (including stormwater retention facilities) and all common elements in the Condominium. There shall be easements to, through and over those certain general common elements beneath each of the units in the Project in favor of each respective Co-Owner for the installation and placement of and/or continuing maintenance and repair of water well facilities located beneath the Co-Owner's unit which facilities service the structures permitted on the Co-Owner's unit.

**VII.**

**EASEMENTS RETAINED BY DEVELOPER**

A. The Developer reserves for the benefits of itself, its successors and assigns, and that certain land described in Article X and XI hereinafter, perpetual easements for the unrestricted use of all roads, driveways, walkways and general common elements in the Condominium for the purposes of ingress and egress to and from all or any portion of the parcel described in Article II or any portion or portions thereof, and any other land contiguous to the Condominium Premises which may be now owned or hereafter acquired by the Developer or its successors. All expenses of maintenance, repair, replacement and resurfacing of any road referred to in this Article shall be shared by this Condominium and any developed portions of the contiguous land described in Article X (whether developed as a part of this Project or as separate project(s)) and any other land contiguous to the Condominium Premises which may be now owned or hereafter acquired by the Developer or its successors whose closest means of access to a public road is over such road or roads. The Co-Owners of this Condominium shall be responsible from time to time for payment of a proportionate share of said expenses which share shall be determined by multiplying such expenses times a fraction, the numerator of which is the number of units, in this Condominium, and the denominator of which is comprised of the number of such units plus all other units added on the land described in Article X (whether developed as a part of this Project or as separate project(s)) and all of the units and/or lots added on any other land contiguous to the Condominium Premises which may be now owned or hereafter acquired by the Developer or its successors whose closest means of access to a public road is over such road.

B. The Developer also hereby reserves for the benefit of itself, its successors and assigns, the current and future owners of that certain land described in Article X and XI hereinafter, and all future owners of the land described in Article II or any portion or portions thereof and any other land contiguous to the Condominium Premises which may be now owned or hereafter acquired by the Developer, perpetual easements to utilize, tap, tie into, and/or extend and enlarge all utility mains located on the Condominium Premises, including, but not limited to, electric, water, telephone, gas, and storm and sanitary sewer mains, if any. In the event Developer, its successors or assigns, utilizes, taps, ties into, extends or enlarges any utilities located on the Condominium premises, it shall be obligated to pay all of the expenses reasonably necessary to restore the Condominium premises to their state immediately prior to such utilization, tapping, tying in, extension or enlargement. The Developer reserves to itself, its successors and assigns, the right to terminate and revoke any utility easements granted in Exhibit "B" at such time as the particular easement has become unnecessary. This may occur, by way of example but not limitation, when water or sewer systems are connected to municipal systems. No utility easement may be terminated or revoked unless and until all units served by it are adequately served by an appropriate substitute or replacement utility. Any termination or revocation of any such easement shall be effected by the recordation of an appropriate instrument of termination.

C. All easements reserved by the Developer shall be assignable and shall be binding upon all parties, their heirs, successors and assigns.

D. The Developer hereby reserves for the benefit of itself, its successors and assigns, that certain land described in Article X and XI hereinafter, and all future owners of the land described in Article II or any portion or portions thereof and any other land contiguous to the Condominium Premises which may be now owned or hereafter acquired by the Developer, the right to install and/or utilize a ten (10) foot wide walking pathway through the common elements and/or over the common project roadways as depicted on Exhibit "B" attached hereto, which improvements would utilize general common elements of this Project. The Developer is under no obligation to install these improvements. However, the Co-Owners, through the Association, would be obligated to install such pedestrian walkway (and connect to the public sidewalks) in the event that, if ever, public sidewalks are constructed on land adjacent to Empire Hills; the Co-Owners, through the Association, would be obligated to dedicate such sidewalks to the Village and the public for public use. The Developer and/or the Co-Owners, through the Association, would have the option of granting a non-exclusive, pedestrian easement over such Project roadways and those general common element open space areas so as to provide a route over which pedestrians could access the Sleeping Bear Dunes National Lakeshore .property adjacent to and located to the south of the Project; such easement would be limited to only those portions of the Project roadways and open space areas so as to provide the most direct route possible and the Developer and/or the Co-Owners, through the Association, shall not install, grant the right to install nor permit the installation of any form of pavement, including by way of inclusion, asphalt or concrete, over the open space area, i.e. the pathway over the open space area would be a natural pathway. If the Developer



decides to improve these areas, the Developer would be responsible for the costs of the approval and dedication process, as well as any improvements, otherwise, the Co-Owners, through the Association, would be responsible for all such costs.

## VIII.

### RESTRICTIVE COVENANTS

The land described in Article II above shall be subject to the restrictions described in Articles VI and VII of the Condominium Bylaws attached hereto as Exhibit "A", which restrictions shall run with the land and shall be binding on all heirs, successors and assigns of said land; said restrictions, notwithstanding Article XII hereafter or any other provision of this Master Deed or its Exhibits, shall not be modified, amended nor altered without the express written consent of the Developer (until such time as the Developer no longer has an interest in the Project).

By way of inclusion and not limitation, the following restrictions shall run with the land described in Article II hereof equally as if said restrictions had been provided in said Articles VI and VII of the Condominium Bylaws. The Association shall conduct routine maintenance of the stormwater retention areas and attendant stormwater management facilities within the Project to continually meet the specifications of the stormwater plan approved by the Leelanau County Drain Commissioner's Office. If the Association fails to conduct the required maintenance on the stormwater facilities, the Drain Commissioner's Office reserves the right to request that said maintenance be completed. The Association shall conduct routine maintenance of the stormwater retention areas and other stormwater management facilities within thirty (30) days of receipt of written notification that action is required, unless other acceptable arrangements are made with the Leelanau County Drain Commissioner, and shall conduct emergency maintenance within thirty-six (36) hours of written notification; in the event that the Association shall fail to act within these time frames, the Leelanau County Drain Commissioner may perform the needed maintenance and assess the costs therefore against the Association. The Leelanau County Drain Commissioner and the Commissioner's successors, assigns and transferees (the "Commissioner") are hereby granted a perpetual and permanent easement in, over, under and through the property described in Article II hereinabove, which easement may not be amended nor revoked except with the written approval of the Commissioner or his or her successors or assigns (any attempted modification without such prior written approval shall be void and without any legal effect), and which contains the following terms and conditions and grants the following rights:

A. The easement shall be for the purpose of developing, establishing, constructing, repairing, maintaining, deepening, cleaning, widening and performing any associated construction activities and grading in connection with, any type of drainage facilities or storm drains, in any required size, form, shape or capacity;

B. The Commissioner shall have the right to sell, assign, transfer or convey this easement to any other governmental unit;

C. No owner in the Condominium shall build or convey to others any permission to build any permanent structures on any drainage facilities or storm drains within said easement;

D. No owner in the Condominium shall build or place on any drainage facilities or storm drains within the area covered by the easement any type of structure, fixture or object, or engage in any activity or take any action, or convey any property interest or right, that would in any way either actually or threaten to impair, obstruct, or adversely affect the rights of grantee under the said easement;

E. The Commissioner and his or her agents, contractors and designated representative shall have right of entry on, and to gain access to, the easement property;

F. All owners in the Condominium release the Commissioner and its successors, assigns or transferees from any and all claims to damages in any way arising from or incident to the construction and maintenance of a drain or sewer or otherwise arising from or incident to the exercise by the Commissioner of his or her rights under the said easement, and all owners covenant not to sue the Commissioner for any such damages, except for damages caused by the negligence of Commissioner.

Further, by way of inclusion and not limitation, the following restrictions shall run with the land described in Article II hereof equally as if said restrictions had been provided in said Article VI of the Condominium Bylaws. Permits for the installation of wells and sewage disposal systems shall be obtained from the Leelanau County Health Department prior to any construction on a lot. All dwellings shall be serviced by a potable water supply system. All wells on individual lots shall be drilled by a well driller licensed by the State of Michigan to a minimum depth of 320 feet (for lots 1 through 53) and 260 feet (for lots 54 through 80); the minimum well depth for lots 1 through 53 shall be established using test well #2, located on lot #40, as a benchmark (the location of the test well on lot #40 was drilled at approximately 750' above sea level) and the minimum well depth for lots 54 through 80 shall be from existing grade to the top of the well screen. Upon completion of the well, the owner shall be responsible for having the water tested for nitrates by a certified laboratory with the results submitted to the Health Department. A complete well log form for each potable well shall be submitted to the Health Department within 60 days following completion of the well. Each water supply, upon completion shall be tested for bacteriological and nitrate analysis, and satisfactory results shall be obtained prior to the system being placed into service. The site development plan, which shows initial and replacement drain bed locations on each unit, is on file with the Health Department. These plans will be utilized by the Department in issuing well and septic permits in conformity with the specific sewage system design requirements as stated hereinafter. The following units shall be subject to and comply with the following specific requirements:

- Unit #1 Reserve drain bed: Over-excavate to 6 feet.
- Unit #5 Initial drain bed: Mix soils to a depth of 4 feet below drain bed stone, over-excavate as needed.  
Reserve drain bed: Over-excavate to 8 feet.
- Unit #6 Reserve drain bed: Over-excavate to 4 feet below drain bed stone, mix soils.
- Unit #7 Reserve drain bed: Mix soil to a depth of 4 feet below drain bed stone.
- Unit#10 Initial and Reserve drain beds: Mix soils to a depth of 4 feet below drain bed stone.
- Unit #11 Initial drain bed: Over-excavate to 4 feet.  
Reserve drain bed: Over-excavate to 5 1/2 feet.
- Unit #13 Initial and Reserve drain beds: Over-excavate to 8 feet.
- Unit #14 Reserve drain bed: Over-excavate to 7 feet.
- Unit #15 Initial and Reserve drain beds: Over-excavate to 8 feet.
- Unit #16 Initial drain bed: Over-excavate to 5 feet.
- Unit #17 Reserve drain bed: Over-excavate to 6 1/2 feet.
- Unit #18 Reserve drain bed: Over-excavate to 4 1/2 feet.
- Unit #20 Reserve drain bed: Over-excavate to 6 1/2 feet.
- Unit #22 Reserve drain bed: Over-excavate to 5 feet.
- Unit #25 Reserve drain bed: Over-excavate to 6 1/2 feet.
- Unit #27 Reserve drain bed: Over-excavate to 5 feet.
- Unit #28 Initial drain bed: Top of stone to be located near grade.  
Reserve drain bed: Over-excavate to 7 feet.
- Unit #29 Reserve drain bed: Mix soils to a depth of 4 feet below drain bed stone.
- Unit #30 Reserve drain bed: Over-excavate to 4 feet.
- Unit #31 Initial drain bed: Keep shallow with top of drain bed stone no more than 6 inches below existing grade.  
Reserve drain bed: Over-excavated (4 feet below stone) trench design.
- Unit #32 Initial and Reserve drain bed site were required to be prepared prior to approval. Both sites have been prepared and approved.
- Unit #33 Initial drain bed: Over-excavate to 3 1/2 feet.  
Reserve drain bed: Mix soils to a depth of 4 feet below drain bed stone, over-excavate as needed.
- Unit #34 Initial drain bed: Over-excavate to a depth of 7 feet, cut and grade.  
Reserve drain bed: Keep shallow with top of drain bed stone no deeper than 1 1/2 feet below existing grade.
- Unit #36 Initial drain bed: Keep shallow with top of stone no more than 2 feet below existing grade, and a low pressure distribution system is likely due to elevations.  
Reserve drain bed: Over-excavated (4 feet below stone) trench design, keep system shallow.
- Unit #37 Reserve drain bed: Keep shallow with top of drain bed stone no more than 1 foot below existing grade, and a low pressure distribution system is likely due

to elevations.

- Unit #38 Reserve drain bed: Keep shallow with top of drain bed stone no more than 1 foot below existing grade.
- Unit #47 Initial and Reserve drain beds: Over-excavate to 4 feet.
- Unit #48 Initial and Reserve drain beds: Cutting and grading will be required to prepare an adequate level surface for system installation. Over-excavate to 4 feet.
- Unit #49 Initial and Reserve drain beds: Keep systems shallow or over-excavate to 8 feet.
- Unit #53 If drainage area between Unit 53 and Unit 54 ever appears to hold surface water for any substantial length of time, it will be required that the drainage area be piped and covered so as to eliminate any surface water.
- Unit #54 If at any time in the future, the drainage area located to the south appears to hold any surface water for any substantial length of time, the Department will require that the drainage area be piped and covered so as to eliminate any surface water.
- Unit #55 Reserve drain bed: mix soils over-excavate as needed.
- Unit #57 Initial & Reserve drain bed: mix soils over-excavate as needed.
- Unit #59 Initial & Reserve drain bed: mix soils over-excavate as needed.
- Unit #60 Reserve drain bed: top of drain bed stone near grade/replace topsoil as needed.
- Unit #61 Initial & Reserve drain bed: mix soils.
- Unit #62 Initial & Reserve drain bed: mix soils over-excavate as needed.
- Unit #63 Initial & Reserve drain bed: mix soils keep shallow top of drain bed stone no more than 2' below grade.
- Unit #64 Reserve drain bed: over-excavate to 4'.
- Unit #65 Reserve drain bed: over-excavate to 6' cut and grade.
- Unit #66 Reserve drain bed: over-excavate to 4' cut and grade.
- Unit #67 Initial & Reserve drain bed: over-excavate 6' to 10' cut and grade.
- Unit #70 Initial & Reserve drain bed: mix soils 5' below drain bed stone.
- Unit #71 Initial & Reserve drain bed: mix soils 5' below drain bed stone.
- Unit #72 Reserve drain bed: top of drain bed stone at grade.
- Unit #73 Initial & Reserve drain bed: bottom of drain bed stone near grade replace topsoil as needed.
- Unit #74 Reserve drain bed: mix soils over-excavate as needed keep shallow.
- Unit #77 Reserve drain bed: mix soils.
- Unit #78 Initial & Reserve drain bed: mix soils.
- Unit #79 Initial & Reserve drain bed: mix soils.

All units will require varying degrees of site preparation at the time of drain bed installation. Most preparation will consist of cutting and grading slopes and tree removal. All drain bed side slopes shall be no steeper than 4 to 1. Stormwater retention, well location, and driveway placement on each unit shall not interfere with initial or reserve drain bed areas. As to

units 54 through 80, all wells shall be located in an area which allows future access after the dwelling is constructed.

## IX.

### CONVERTIBLE AREA

The Condominium Project contains convertible area. The convertible area in the Condominium Project consists of all of the units and common elements in the Condominium Project whether or not so designated as such in the Condominium Subdivision Plan attached hereto as Exhibit "B". The convertible area may be utilized to change the size and shape of unsold units (including the relocation of boundaries between adjoining units) and the general or limited common elements. No additional condominium units may be created within such convertible area. Additional common elements may be created within such convertible area and/or unsold units and common elements may be eliminated from the Project. The Developer reserves the right to change the assignment of specific limited common elements to certain lots, to create or remove general and/or limited common elements within this convertible area and to designate general and/or limited common elements therein which may subsequently be assigned as limited common elements. There may be no restrictions as to what improvements may be made on the convertible area and there is no restriction as to the location of any improvements that may be made on any portions of the convertible area. The conversion of any convertible area, as hereinbefore described, must occur, if ever, not later than six (6) years after the date of the initial recording of this Master Deed.

Pursuant to the foregoing, and any other provisions of this Master Deed to the contrary notwithstanding, the conversion of any convertible area in the Condominium Project shall be given effect by an appropriate amendment or amendments to this Master Deed in the manner provided by law, which amendment or amendments shall be prepared by and at the discretion of the Developer or its successors or assigns. The percentages of value set forth in Article V hereof shall be adjusted proportionately in the event of such conversion in order to preserve a total value of one hundred (100%) percent for the entire project resulting from such amendment or amendments to this Master Deed. The precise determination of the readjustments in percentages of value shall be made within the sole judgment of Developer. Such readjustments, however, shall reflect a continuing reasonable relationship among percentages of value based upon the relative size of the various units and their anticipated allocable expenses of maintenance. All of the Co-Owners and mortgagees of units and other persons interested or to become interested in the Condominium Project from time to time shall be deemed to have irrevocably and unanimously consented to such amendment or amendments of this Master Deed to effectuate the foregoing and, subject to the limitations set forth herein, to any proportionate reallocation of percentages of value of existing or remaining units which Developer or its successors or assigns may determine to be necessary in conjunction with such amendment or amendments. All such interested persons irrevocably appoint Developer or its successors or assigns as agent and attorney for the purpose of

execution of such amendment or amendments to this Master Deed and all other documents necessary to effectuate the foregoing. Such amendments may be effected without the necessity of re-recording the entire Master Deed or the Exhibits thereto and may incorporate by reference all or any pertinent portions of this Master Deed and the Exhibits hereto; PROVIDED, HOWEVER, that a Consolidating Master Deed, when recorded, shall supersede the previously recorded Master Deed and all amendments thereto. Nothing herein contained, however, shall in any way obligate Developer (or its successors or assigns) to convert in any way the Condominium Project as established by this Master Deed.

## X.

### ENLARGEMENT OF CONDOMINIUM

#### A. Right to Expand

The Condominium Project is an expandable condominium project, as that term is defined in the Act. The Condominium Project established pursuant to this Master Deed, and consisting of eighty (80) units, may be the first, second and third phases of a multiphase project which will contain in its entirety no more than one hundred fifty-five (155) units.

The Developer, for itself and its successors and assigns, hereby explicitly reserves the right to expand the Condominium Project without the consent of any of the Co-Owners. This right may be exercised without any limitations whatsoever, except as expressly provided in this Article X. The additional land, all or any portion of which may be added to the Condominium Project, is described as follows:

That part of the South 1/2 of the Southwest 1/4 of said section 19; Town 28 North, Range 14 West, Village of Empire, Leelanau County, Michigan, more fully described as follows:

Commencing at the South 1/4 corner of said Section 19; thence N 87°20'32" W, 350.04 feet along the South line of said Section 19 to the POINT OF BEGINNING; thence continuing N 87°20'32" W, 1335.05 feet; thence N 02°42'42" E, 1329.79 feet along the West line of said Section 19; thence S 87°08'00" E, 2204.05 feet along the centerline of Front Street; thence S 03°32'00" W, 659.57 feet along the North-South 1/4 line; thence N 87°08'00" W, 350.02 feet; thence S 03°32'00" W, 663.18 feet along a line parallel to the North-South 1/4 line to the POINT OF BEGINNING. Containing 61.477 acres. Subject to the right-of-way of Front

Street over the Northerly 33 feet thereof. Subject to other easements or restrictions, if any.

AND ALSO Part of the Northwest 1/4 of the Southeast 1/4 of Section 19, Town 28 North, Range 14 West, Township of Empire, Leelanau County, Michigan, more fully described as follows:

Commencing at the South 1/4 corner of said Section 19; thence N 03°32'00" E, 1774.74 feet along the North-South 1/4 line of said Section 19; thence N 80°56'52" E, 648.60 feet to the POINT OF BEGINNING; thence N 03°32'00" E, 350.00 feet; thence along a 2290.83 foot radius curve to the right (central angle = 04°09'34", chord bearing = S 78°37'44" W, chord dist. = 166.27 feet) for 166.31 feet; 166.27 feet; thence N 82°27'32" E, 221.00 feet; thence S 04°05'38" W, 264.00 feet; thence N 81°41'10" E, 337.18 feet; thence S 04°05'53" W, 764.94 feet; thence N 87°06'01" W, 363.19 feet; thence N 52°22'58" W, 48.66 feet; thence N 77°08'42" W, 150.65 feet; thence N 60°53'34" W, 161.14 feet; thence N 03°32'24" E, 407.25 feet to the POINT OF BEGINNING. Containing 12.991 acres. Subject to other easements or restrictions, if any.

except that portion thereof which has already been dedicated to Condominium ownership (herein referred to as the "Expansion Property").

#### **B. Restriction upon Expansion**

Expansion of the Condominium Project shall occur without restriction under the following conditions:

1. The Developer's right to elect to expand the Project shall expire on that date six (6) years after the date of the initial recording of this Master Deed.
2. All or any portion of the Expansion Property may be added, but none of it must be added.
3. There is no limitation as to what portion of the Expansion Property may be added, and any portions added may or may not be contiguous to each other or to the Condominium Project as it exists at the time of any expansion.
4. Portions of the Expansion Property may be added to the Condominium Project at different times.

5. The order in which portions of the Expansion Property may be added is not restricted, nor are there any restrictions fixing the boundaries of those portions of the Expansion Property that may be added.

6. There is no restriction as to the location of any improvements that may be made on any portions of the Expansion Property.

7. The maximum number of condominium units that may be created on the Expansion Property is seventy-five (75).

8. There is no restriction upon the number of condominium units that may be placed on any portion of the Expansion Property.

9. The maximum percentage of the aggregate land area of all condominium units that may be created on the Expansion Property that may be occupied by condominium units not restricted exclusively to residential use (interpreted by the Developer to include all permitted uses [including uses by right and special uses approved by the applicable zoning authority] in the PUD-B residential zoning district) is zero.

10. The nature, size, appearance and location of all additional units, if any, placed upon the Expansion Property will be as may be determined by the Developer in its sole judgment without any restrictions whatsoever.

11. There may be no restrictions as to what improvements may be made on the Expansion Property.

12. There are no restrictions as to the types of condominium units that may be created on the Expansion Property.

13. The Developer reserves the right in its sole discretion to create convertible and contractible area and general and/or limited common elements within any portion of the Expansion Property added to the Condominium Project and to designate general common elements which may subsequently be assigned as limited common elements and vice versa.

14. The Condominium Project shall be expanded by a series of successive amendments to this initial Master Deed, each adding additional land to the Condominium Project as then constituted.

15. By this Master Deed, the Developer also reserves the right to create easements within any portion of the Condominium Project for the benefit of the Expansion Property, whether or not it is ever added to the Condominium Project.



16. All expansion must be carried out in accordance with the provisions of the Act.

### **C. Procedure for Expansion**

Pursuant to the foregoing, and any other provisions of this Master Deed to the contrary notwithstanding, the number of units and the amount of real property in the Condominium Project may, at the sole option of the Developer or its successors or assigns, from time to time, within a period ending no later than six (6) years after the date of the initial recording of this Master Deed, be increased by the addition to this Condominium Project of all or any portion of the Expansion Property and the location of condominium units thereon. Such increase in size of this Condominium Project shall be given effect by an appropriate amendment or amendments to this Master Deed in the manner provided by law, which amendment or amendments shall be prepared by and at the discretion of the Developer or its successors or assigns. The percentages of value set forth in Article V hereof shall be adjusted proportionately in the event of such expansion in order to preserve a total value of one hundred (100%) percent for the entire project resulting from such amendment or amendments to this Master Deed. The precise determination of the readjustments in percentages of value shall be made within the sole judgment of Developer. Such readjustments, however, shall reflect a continuing reasonable relationship among percentages of value based upon the relative size of the various units and their anticipated allocable expenses of maintenance. Such amendment or amendments to the Master Deed shall also contain such further definitions or modifications of general or limited common elements as may be necessary to adequately describe the additional property being added to the Condominium Project by such amendment. Such amendment or amendments to the Master Deed shall also contain such further definitions and re-definitions of general or limited common elements as may be necessary to adequately describe and service the additional units being added to the Condominium Project by such amendment. In connection with any such amendment(s), Developer shall have the right to change the nature of any common element previously included in the Project for any purpose reasonably necessary to achieve the purposes of this Article, including, but not limited to, the connection of roadways, pathways and sidewalks, if any, in the Project to any roadways, pathways and sidewalks that may be located on, or planned for the future development, and to provide access to any unit that is located on, or located in the Project. All of the Co-Owners and mortgagees of units and other persons interested or to become interested in the Condominium Project from time to time shall be deemed to have irrevocably and unanimously consented to such amendment or amendments of this Master Deed to effectuate the foregoing and, subject to the limitations set forth herein, to any proportionate reallocation of percentages of value of existing units which Developer or its successors or assigns may determine to be necessary in conjunction with such amendment or amendments. All such interested persons irrevocably appoint Developer or its successors or assigns as agent and attorney for the purpose of execution of such amendment or amendments to this Master Deed and all other documents necessary to effectuate the foregoing. Such amendments may be effected without the necessity of re-recording the entire

Master Deed or the Exhibits thereto and may incorporate by reference all or any pertinent portions of this Master Deed and the Exhibits hereto; PROVIDED, HOWEVER, that a Consolidating Master Deed, when recorded, shall supersede the previously recorded Master Deed and all amendments thereto. Nothing herein contained, however, shall in any way obligate Developer to enlarge the Condominium Project beyond the boundaries established by this Master Deed, and Developer (or its successors or assigns) may, in its discretion, establish all or a portion of said Expansion Property as a rental development, a separate condominium project (or projects), or any other form of development.

## **XI.**

### **CONTRACTION OF CONDOMINIUM**

#### **A. Right to Contract**

The Condominium Project is a contractible condominium project, as that term is defined in the Act. The Condominium Project established pursuant to this Master Deed, and consisting of eighty (80) units, may contain in its entirety no less than zero (0) units.

The Developer, for itself and its successors and assigns, hereby explicitly reserves the right to contract the Condominium Project without the consent of any of the Co-Owners. This right may be exercised without any limitations whatsoever, except as expressly provided in this Article XI. The land, all or any portion of which may be removed from the Condominium Project, consists of all of the land of the Condominium Project whether or not so designated as such in the Condominium Subdivision Plan attached hereto as Exhibit "B" and is described in Article II (herein referred to as the "Contraction Property").

#### **B. Restriction upon Contraction**

Contraction of the Condominium Project shall occur without restriction under the following conditions:

1. The Developer's right to elect to contract the Project shall expire on that date six (6) years after the date of the initial recording of this Master Deed.
2. All or any portion of the Contraction Property may be removed, but none of it must be subtracted.

3. There is no limitation as to what portion of the Contraction Property may be removed, and any portions subtracted may or may not be contiguous to each other or to the Condominium Project as it exists at the time of any contraction.

4. Portions of the Contraction Property may be removed from the Condominium Project at different times.

5. The order in which portions of the Contraction Property may be removed is not restricted, nor are there any restrictions fixing the boundaries of those portions of the Contraction Property that may be subtracted.

6. The maximum number of condominium units on the Contraction Property that may be removed is eighty (80).

7. There is no restriction upon the number of condominium units that may be removed from any portion of the Contraction Property.

8. The Condominium Project shall be contracted by a series of successive amendments to this initial Master Deed, each removing additional land from the Condominium Project as then constituted.

9. By this Master Deed, the Developer also reserves the right to create easements within any portion of the Condominium Project for the benefit of the Contraction Property, required, in Developer's sole discretion, due to the contraction of the Condominium Project.

10. All contraction must be carried out in accordance with the provisions of the Act.

### **C. Procedure for Contraction**

Pursuant to the foregoing, and any other provisions of this Master Deed to the contrary notwithstanding, the number of units and the amount of real property in the Condominium Project may, at the sole option of the Developer or its successors or assigns, from time to time, within a period ending no later than six (6) years after the date of the initial recording of this Master Deed, be decreased by the removal from this Condominium Project of all or any portion of the Contraction Property and the elimination of condominium units thereon. Such decrease in size of this Condominium Project shall be given effect by an appropriate amendment or amendments to this Master Deed in the manner provided by law, which amendment or amendments shall be prepared by and at the discretion of the Developer or its successors or

assigns. The percentages of value set forth in Article V hereof shall be adjusted proportionately in the event of such contraction in order to preserve a total value of one hundred (100%) percent for the entire project resulting from such amendment or amendments to this Master Deed. The precise determination of the readjustments in percentages of value shall be made within the sole judgment of Developer. Such readjustments, however, shall reflect a continuing reasonable relationship among percentages of value based upon the relative size of the various units and their anticipated allocable expenses of maintenance. Such amendment or amendments to the Master Deed shall also contain, pursuant to the rights reserved to the Developer in Article IX, such further definitions, re-definitions or modifications of general or limited common elements within any portion of the original Condominium Project as may be necessary, in Developer's sole discretion, to adequately describe and service the units remaining in the Condominium Project due to the contraction resulting from such amendment(s). In connection with any such amendment(s) and pursuant to the rights reserved to the Developer in Article IX, Developer shall have the right to change the nature of any common element previously included in the Project for any purpose reasonably necessary to achieve the purposes of this Article, including, but not limited to, the relocation of roadways, pathways and sidewalks, if any, in the Project to provide access to any unit that is located in the Project. All of the Co-Owners and mortgagees of units and other persons interested or to become interested in the Condominium Project from time to time shall be deemed to have irrevocably and unanimously consented to such amendment or amendments of this Master Deed to effectuate the foregoing and, subject to the limitations set forth herein, to any proportionate reallocation of percentages of value of remaining units which Developer or its successors or assigns may determine to be necessary in conjunction with such amendment or amendments. All such interested persons irrevocably appoint Developer or its successors or assigns as agent and attorney for the purpose of execution of such amendment or amendments to this Master Deed and all other documents necessary to effectuate the foregoing. Such amendments may be effected without the necessity of re-recording the entire Master Deed or the Exhibits thereto and may incorporate by reference all or any pertinent portions of this Master Deed and the Exhibits hereto; PROVIDED, HOWEVER, that a Consolidating Master Deed, when recorded, shall supersede the previously recorded Master Deed and all amendments thereto. Nothing herein contained, however, shall in any way obligate Developer (or its successors or assigns) to reduce the Condominium Project within the boundaries established by this Master Deed.

## **XII.**

### **AMENDMENT**

The Condominium Documents may be amended for a proper purpose, without consent of Co-Owners, mortgagees and other interested parties, as long as the amendments do not materially alter or change the rights of the Co-Owners, mortgagees, or other interested parties.

The Condominium Documents may be amended for a proper purpose, even if the amendment will materially alter or change the rights of the Co-Owners, mortgagees or other

interested parties with the approval of two-thirds of the votes of the Co-Owners in Good Standing. A Co-Owner's unit dimensions may not be modified without his consent. Co-Owners and mortgagees of record shall be notified of proposed amendments.

A person causing or requesting an amendment to the Condominium Documents shall be responsible for costs and expenses of the amendment except for amendments based upon a vote of a prescribed majority of Co-Owners in Good Standing or based upon the advisory committee's decision, the costs of which are expenses of administration.

A Master Deed amendment dealing with the addition or modification of units or the physical characteristics of the Project shall comply with the standards prescribed in the Act for preparation of an original condominium.