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OTTAWA COUNTY, MI

GARY SCHOLTEN R.O.D.

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AMEND RES COVENANTS 44.00

EIGHTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Eighth Amendment to Declaration of Covenants, Conditions and Restrictions, is made this 26th day of October, 2012, by MARIGOLD WOODS HOME OWNERS ASSOCIATION, a Michigan Non-Profit Corporation, (hereinafter "Association"),

RECITALS:

WHEREAS, this Eighth Amendment amends only Article IV and adds a new provision under Section 17 entitled "Single Weekly Curbside Trash Service Provider." No other changes were made with this Eighth Amendment.

WHEREAS, this Eighth Amendment effects property located in Park Township, Ottawa County, Michigan, described as follows:

Lots 136 to 174 inclusive, and Lots 191 to 223, inclusive, together with that part of Everett Avenue which lies east of the east line of Illinois Avenue and west of the west line of Oakwood Avenue, and together with that part of Iowa Avenue which lies north of the north line of Hazel Avenue and south of the south line of Michigan Avenue, all being in First Addition to Waukazoo according to the plat thereof recorded in Liber 4 of Plats, at pages 26, 27 and 28; and

Also commencing at the southeast corner of Lot 135 of First Addition to Waukazoo according to the recorded plat thereof; and running thence west along the north line of Michigan Avenue a distance of 1,200 feet; thence north upon a line at a right angle to the north line of Michigan Avenue to the north line of the southeast $\frac{1}{4}$ of Section 26, Town 5 North, Range 16 West, thence east upon said north line of the southeast $\frac{1}{4}$ of said Section 26 and the north line of the southwest $\frac{1}{4}$ of Section 25, Town 5 North, Range 16 West, to a point where said north line intersects the westerly line of Resort Avenue, thence southerly along the westerly line of Resort Avenue to the place of beginning, including in this description all those portions of Iowa, Illinois and Hamilton Avenues appearing in said plat of First Addition to Waukazoo within the above description.

All those certain pieces or parcels of land situated in the Township of Park, Ottawa County, State of Michigan, described as follows: Lots 286, 289, 290, 293, 294, 297, 298, 301, 302, 305, and 306 (including the Northerly $\frac{1}{2}$ of vacated Everett Avenue lying between the East and West lines of Lot 306 extended South to the centerline of Everett Avenue), First Addition to Waukazoo, Park Township, according to the recorded plat thereof, and Lots 240 to 263 inclusive, First Addition to Waukazoo, according to the recorded plat thereof.

WHEREAS, this property description includes property in the following plats located in Park Township, Ottawa County, Michigan: Marigold Woods, Marigold Woods No. 2, Marigold Woods No. 3, Marigold Woods No. 4, Marigold Woods No. 5, Marigold Woods No. 6, and land platted in the First Addition to Waukazoo that is bounded on the west by the plat of Marigold Woods and on the east by Waukazoo Drive as it currently exists.

WHEREAS, Marigold Woods, a Limited Partnership, executed a certain "Declaration of Covenants, Conditions and Restrictions," dated April 2, 1973, and recorded in the office of the Register of Deeds for Ottawa County, Michigan, in Liber 673, Pages 499 through 509, as amended ("Declaration"), and

WHEREAS, having been delegated all of the rights of the Declarant, the Association desires to further amend the Declaration as provided below, and

WHEREAS, the Association desires to impose certain further and additional covenants, conditions and restrictions to apply to the real property subject to the Declaration, and

WHEREAS, this Eighth Amendment is not intended to supersede the first, second, third or fourth amendments to the Declaration, which amendments are intended to remain in effect. The fifth amendment to this Declaration, as recorded in the office of the Register of Deeds for Ottawa County, Michigan, in Liber 3008, Page 613 through 620, the sixth amendment to this Declaration, as recorded in the office of the Register of Deeds for Ottawa County, Michigan, in Liber 5820, Page 846 through 856, and the seventh amendment to this Declaration, as recorded in the office of the Register of Deeds for Ottawa County, Michigan, in Document Number 2011-0021857, shall be superseded by this Amendment.

NOW THEREFORE, the Association does hereby declare that the Declaration is hereby amended as follows, with the same force and effect as originally written.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to MARIGOLD WOODS HOME OWNERS ASSOCIATION, a Non-Profit Corporation organized under the provision of Act 327 of Public Acts of 1931, as amended, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner or land contract purchaser, whether one or more persons or entities, of the fee simple title to any lot, living unit, or site, which is a part of the property, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Household Vote" shall mean that each property address in the association receives one vote in association business. It is the responsibility of the owners (described above) to determine how the household as a whole shall use their single vote. Votes can only be cast by an owner.

Section 4. "Property" shall mean and refer to that certain real property described in the recitals above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, and any parcel thereof sold by metes and bounds description, but shall not mean any Common Area or any portion thereof.

Section 7. "Board of Directors" shall mean the Board of Directors of Marigold Woods Home Owners Association.

Section 8. "Declarant" shall mean and refer to Marigold Woods, a Limited Partnership, its successors and assigns.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment

Every Owner of any land within the Property and any and all additions thereto shall have a right and easement of enjoyment in the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions.

- a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- b) The right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) calendar days for any infraction of its published rules and regulation;
- c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-third (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use

Any Owner may delegate in accordance with the by-laws his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments

Each Owner of any Lot by acceptance of the deed or executing a land contract as purchaser thereof, whether or not it shall be so expressed in such deed, or land contract, is deemed to covenant and agree to pay to the Association:

- a) Reasonable annual assessments or charges;
- b) Special assessments for capital improvements that are approved by the Association Board of Directors and a sufficient percentage of owners in attendance at an annual or special meeting;
- c) Special assessments for all other needs, emergencies, or situations, such assessments to be established by approval of the Board of Directors and a simple majority of Household Votes to take action at an annual or special meeting; and
- d) Assessments imposed related to Article V, Section 2

If a property owner fails to pay assessments when due, these assessments – together with interest, costs and reasonable attorneys' fees and late fees (as determined by the Board of Directors) – shall be a continuing lien on the property against which each such assessment is made. The Association is entitled to file and enforce a claim foreclosing said lien. All assessments, together with interest, costs, reasonable attorneys' fees and late fees, shall also be a personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property and for the improvement and maintenance of the Common Area.

Article IV of the Declaration of Covenants, Conditions and Restrictions, entitled "BUILDING AND USE REGULATIONS," shall be amended to read in its entirety as follows:

ARTICLE IV

ARCHITECTURAL CONTROL

Section 1. Exterior Changes

No building, fence, arbor, antenna, pond, above ground electrical or utility service, wall or other structure shall be commenced, erected or maintained upon a Lot or Property, nor shall any exterior addition to or change or alteration (excluding plantings and ground cover) be made on a Lot or Property until the plans and specifications showing the nature, kind, shape, height, dimensions, materials, colors, location and any distinguishing features of the same shall have been submitted to and approved in writing by the Board of Directors of the Association, or,

subject to the terms herein, by an Architectural Committee composed of representatives appointed by the Board. All exterior changes must be harmonious with surrounding structures, surrounding topography, and the other Lots within the Association. The Board or Architectural Committee, as applicable, has the right to deny any plans, or portions thereof, which are not suitable or desirable in its sole discretion, for aesthetic, quality of workmanship or other reasons.

The Board has the responsibility to respond to all requests in a timely manner. When possible, an acknowledgement of receipt will be sent within fourteen (14) calendar days of submission. The Architectural Committee and/or the Board will respond to all complete requisitions within thirty (30) calendar days unless otherwise communicated. The Board controls the Architectural Committee and has the authority to overrule any decision made by the Architectural Committee.

The Board of Directors or the Architectural Committee, as applicable, may upon a showing of practical difficulties grant variances from the terms and conditions herein, but only to the extent and in such manner as not to violate the spirit and intent of the restrictions and regulations in this Article.

Any exterior addition, change or alteration made without compliance with this Section shall, in the sole discretion of the Board of Directors, constitute a nuisance and shall invoke the Association's remedies as provided in Article V, Section 2.

Section 2. Building and Use Regulation

No building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling not to exceed two stories in height, and prior to occupancy, each dwelling lot shall also contain a private garage for not more than three (3) cars or less than two (2) cars. The Association may use any area owned by it for such purposes as a community swimming pool, community house, paddle-tennis, tennis, or similar recreational facility as the Association sees fit to do after approval by the Board and not less than 51% of all household votes.

No Lot shall be used for other than single-family residential purposes and the common elements shall be used only for purposes consistent with the use of single-family residences. For purposes hereof, a single-family shall mean one of the following:

- (a) no more than two persons not related by blood, marriage or adoption;
- (b) the children of either or both of them, and/or the parents of either, but not of both of them, and no other persons;
- (c) or such other definition as is required by applicable law.

If a Lot is occupied by more than the allowed number of persons, the owner shall, within thirty (30) calendar days after notice from the Association of the violation, reduce the number of occupants to comply with this rule or shall sell and vacate their unit within one (1) year after notice from the Association of the violation.

No commercial activities shall be carried on upon any Lot, except home occupations carried on entirely inside the home that do not involve customers or vendors regularly coming into the Lot. Home occupations must be in compliance with local ordinance and clearly incidental and secondary to the use of the residence for dwelling purposes and does not change the character thereof; provided, there shall be:

- (a) no sign or display that indicates from the exterior that the residence is being utilized in part for any purpose other than that of a dwelling;
- (b) no mechanical or electrical equipment shall be used which creates a nuisance on the premises
- (c) no customers regularly coming to the unit;
- (d) no violation of reasonable regulations regarding home occupations set by the Association.

No Lot or any portion thereof, may be leased or licensed for a period of less than 12 months to a specific tenant.

Section 3. Dwelling Size

Each dwelling unit shall contain at least 1,100 square feet floor area, exclusive of porches, garages and breezeways, and each two-story dwelling unit shall contain at least 1,560 square feet of floor area exclusive of garages, porches and breezeways.

Section 4. Ground Floor Size

The ground floor of any dwelling to be erected on any lot or building site, exclusive of garages, breezeways, utility rooms, and open porches, shall be as follows:

Not less than 1,700 square feet in the case of one-story structures;

Not less than 1,000 square feet in the case of 1 ½ story structures;

Not less than 900 square feet in the case of two-story structures

Section 5. Signs

No sign of any kind shall be displayed to the public view on any lot except one sign of not more than four (4) square feet advertising the property for sale or lease, or signs used by a builder to advertise the property during the remodeling period. This sign may only be located on the property where the activity is occurring. Signs advertising garage sales are only permitted for 48 hours and may only be located at the lot conducting the sale. The Board of Directors and approved committees may post signs announcing Association events such as annual meeting, spring clean-up, social events, or other notices pertinent to the Owner's as a whole.

Section 6. Vehicles

No all terrain vehicles, boats, personal or other watercraft, motor homes, recreational vehicles, campers, trailers, vehicles of any nature or size bearing signage for any commercial enterprise, unlicensed or inoperable vehicles, or similar vehicles, or parts of any of the foregoing, shall be stored, parked or left on any Lot or in the street (except fully within a closed garage located thereon) for a period of longer than a cumulative total of fourteen (14) days during any calendar year or for more than 48 hours consecutively. No semi-trucks, either tractor or trailer or both, step vans, or any vehicles larger than a full-size van or sport-utility vehicle shall be permitted to be parked in the Property, except temporarily for the purpose of pick-up or delivery. Vehicles of any nature or size may not be regularly parked in the street (more than 30 days in any calendar year) or parked on any portion of any Lot (other than fully on the driveway or fully in a garage) for any period of time.

Section 7. Animals

No animals shall be kept on any Lot except household pets, and no dog, unless being walked, shall be permitted outside for more than fifteen (15) minutes between the hours of midnight and 6:00 a.m. No pets shall be kept or bred on any Lot for commercial purposes, and all pets shall have such care and restraint so as not to be obnoxious or offensive to any other Lot on account of noise, odor or unsanitary conditions. No unsafe or dangerous animals shall be kept on any Lot, and no pets shall be permitted to run loose in the Property. The owner of a pet shall be responsible for removing fecal matter dropped by the pet on property not owned by the owner of the pet.

Section 8. Offensive Activities

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done on any Lot which may become an annoyance or nuisance to the occupants of any other Lot.

Section 9. Waste

No rubbish, trash, yard waste, garbage or waste shall be dumped, left, disposed of or burned on any Lot. Such materials shall not be kept on any Lot except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. All Lots shall be kept free from accumulations of brush, rubbish, trash, garbage and waste.

Section 10. Lines

All electrical, cable television, and telephone lines shall be placed underground and no outside electrical lines or wires shall be placed overhead without the approval Board of Directors, or the Architectural Committee, as applicable. Exterior television antennas and satellite dishes of less than one meter in diameter shall be permitted with the approval of the Board of Directors or the Architectural Committee, as applicable. Antennas shall be no taller than necessary to obtain an acceptable signal. Satellite dishes shall be screened from view from the street(s) along the front or side of a Lot; shall extend less than five (5) feet above grade (unless such height limit would impair reception of an acceptable signal in which case such limit shall be extended to the minimum height necessary to receive such a signal); shall be painted a uniform neutral color without any advertising, message or symbol (other than safety warnings required by federal law) visible from anywhere outside the Lot on which the dish is located. The Board of Directors or architectural committee may grant variances from the screening and height restrictions for satellite dishes to be in compliance with Section 207 of the Telecommunication Act of 1996, Public Law No. 104-104, 110 Stat. 56 (1996), and amendments thereto ("Act") and may adopt rules and regulations regarding satellite dishes or antennas to the extent permitted by the Act.

Section 11. Care and Appearance of Premises

The owners of each Lot shall maintain their Lot, the improved area between a paved street and their Lot ("Frontage Area") and all Improvements located within their Lot or Frontage Area in a neat and attractive manner and in good condition, maintenance and repair, and shall be kept free of debris, tools, equipment, machinery, vehicle parts, and the like.

Section 12. Sheds Prohibited

No shed, storage building or structure, trailer or similar items shall be placed on any Lot.

Section 13. Sight Line Obstructions

Subject to additional restrictions contained herein and architectural review, no fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-

five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight-lines.

Section 14. Structures

No structure of a temporary character, trailer, basement, shack, barn or other outbuilding other than a garage (subject to architectural review), shall be placed on any lot at any time for any purpose whatever whether temporarily or permanently. Construction and landscaping once commenced shall be completed ready for occupancy for the purpose for which constructed within eighteen (18) months after the date of commencement of construction.

Swing sets (which may include attached slides, rings, bars and other standard apparatuses), are permitted without architectural review. Swing sets must be kept in the rear of the house. Other locations or play apparatuses such as forts, or a children's play house are subject to architectural review.

Section 15. Driveway and Parking Area Materials

All driveways, driving approaches, and off-street parking areas shall be surfaced with an asphalt, bituminous, or portland cement binder pavement.

Section 16. Fences

No fences are allowed on a Lot except for some residential decorative fencing as noted below. It is the Association's intention to have Lots be free from visual and physical barriers except as provided by trees, shrubs and other vegetation. To meet approval, decorative fencing must:

- a) be harmonious with surrounding structures, surrounding topography, and adjacent Lots within the Association
- b) make use of natural materials when possible; in addition to the preferred wood, iron, powder-coated aluminum and vinyl may be accepted (no wire or chain link)
- c) be adequately maintained and not fall into disrepair
- d) be no more than 40" in height above grade
- e) be no longer than fifty (50%) percent of the associated lot line
- f) not used along the property frontage to the street
- g) not be used to enclose an area nor have any features that have the purpose or effect of creating an enclosure or barrier of any sort
- h) no fencing (other than underground electronic) may be constructed to contain animals

Alternatives may be allowed pending approval by the Architectural Committee and the association Board of Directors. The Board or Architectural Committee, as applicable, has the right to refuse to approve any fence plans, or portions thereof, which are not suitable or desirable in its sole discretion, for aesthetic, quality of workmanship or other reasons. The

Association strongly recommends that Homeowners consult with adjacent neighbors prior to constructing a decorative fence as allowed by this provision.

Section 17. Trash Removal. The Owners of each Lot, if contracting for trash removal, periodic yard waste removal or trash recycling, shall contract these services only with the trash service provider selected by the Association. The Association selected trash service provider will be selected from time to time by the Board or Directors and announced to the Association. Upon the initial adoption of this Section, for a period not exceeding one year or the length of an existing contracting, whichever is shorter, enforcement will not be taken if the Lot is subject to a contract that cannot be terminated without penalty.

ARTICLE V

GENERAL PROVISIONS

Section 1. Common Areas

The Association shall accept as the property of the Association any and all lands which are conveyed to it by the Declarant. The Association in consideration for such conveyances shall pay all taxes and assessments levied by any governmental authority against said property. The Association may, at any time, impose such reasonable restrictions upon the use and hours of use of the Common Areas as it deems proper. The Association's only responsibility, if any, for maintenance of Common Areas shall be limited to felling, but not removing, trees that are in imminent danger of injuring or damaging persons or property. No Owner's use, occupancy, planting or removal of vegetation, or exercise of control over any portion of Common Areas shall begin to ripen into a claim for adverse possession or prescriptive easement until such time as the Owner provides unequivocal written notice to each member of the Board of Directors of his or her intention to begin asserting a claim for adverse possession or prescriptive easement over said portion of the Common Area.

Section 2. Enforcement

The Association shall have the right to enforce, by the imposition of fines (in amounts and frequency of the Board's reasonable determination), or by any proceeding at law or in equity, including, but not limited to, a temporary restraining order and other injunctive relief, all covenants, conditions, restrictions and rules now or hereafter imposed by or through this Declaration. Owners have the right to enforce the covenants through a proceeding at law or in equity. Enforcement by the Association includes foreclosure of liens in the manner provided by law for foreclosure of real estate mortgages containing a power of sale. The Board of Directors shall enforce this Declaration by a two-thirds (2/3) vote of the Board of Directors or a majority vote of Lots after a Special Meeting (as defined in the Association Bylaws) called for the purpose of enforcing these Declarations. In enforcement of these Declarations, the Association shall have the right, after seven (7) calendar days notice to the Owner of its intended actions, through its agents and employees, to enter upon the Lot in violation of these Declarations, and cure such violation. Notice of intent to cure shall be deemed to have been given by mailing such notice by first class mail and placing a notice on the front door of the Lot.

The cost of the Association to cure and/or remedy current or anticipated future violation, all cost incurred to enforce these Declarations, including reasonable attorneys' fees and related expenses, and unpaid fines shall be added to and become part of the assessment to which such Lot is subject.

Section 3. Invalidity of Provision

Invalidation of any one of the covenants, conditions and restrictions contained in this Declaration by a judgment or order of a court shall in no event affect the validity of any other provision of this Declaration.

Section 4. Restrictions Run With Land

The covenants, conditions, and restrictions contained in this Declaration shall run with and bind the land composing all of the Lots in the Property for a period of twenty-five (25) years from the date that this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. Any amendment must be recorded with the Ottawa County Register of Deeds before it will become effective. Irrespective of this Section 4, the covenants, conditions and restrictions shall always remain subject to amendment as provided in Section 5 herein.

Section 5. Amendment

This Declaration may be amended by approval of the Owners of not less than 51% of the Lots. Any amendment must be recorded with the Ottawa County Register of Deeds to be effective.

Section 6. Zoning Ordinances

If any zoning ordinance or other applicable law, either now in effect or hereafter adopted, shall impose requirements which in their application are more strict than those imposed hereby, then such ordinance provisions shall be an effective part of this Declaration enforceable by the Association or any Owner.

Section 7. Successors in Interest

Any grantee of any Lot in the Property, together with his or her heirs, assigns, and subsequent grantees of the grantee, by acceptance of a deed of conveyance of any Lot, shall be deemed to agree and to promise to comply with and be bound by the provisions of this Declaration, as amended.

Section 8. No Waiver by Lack of Enforcement

The failure of the Association to enforce or object to a failure or refusal to perform any covenant, condition or restriction contained in this Declaration, shall not constitute a waiver of any breach, any subsequent breach, or affect the validity of this Declaration or any part thereof or the right of the Association to thereafter enforce the same. Owners waive any defense of laches, estoppel, statute of limitations or similar defenses to enforcement of the covenants, conditions or restrictions contained in this Declaration.

Section 9. Declarations for Protection of Association

The covenants, conditions and restrictions contained in this Declaration are for the benefit of the Association as a whole and not for the protection of any individual. No third party beneficiaries are created by this Declaration.

Section 10. Board Members Held Harmless

Owners shall hold harmless all members of the Board of Directors of the Association and all other persons assisting the Board of Directors or Association in any volunteer capacity (including their respective heirs and estates) for failure to enforce a covenant, condition or restriction contained in this Declaration and for any other claim or action that could also be brought against the Association. Any approval of the Board of Directors, any committee formed by the Board, any volunteer officer or any other volunteer, shall in no way be construed as a representation or assurance of the lawfulness or appropriateness of an Owner's action(s).


Dated this 26th day of October, 2012.

**MARIGOLD WOODS HOME OWNERS
ASSOCIATION**

By 
William Higgins
Its President

STATE OF MICHIGAN)
) ss.
COUNTY OF OTTAWA)

The foregoing instrument was acknowledged before me in Ottawa County, Michigan, this 26th day of October, 2012, by **William Higgins**, as President of **Marigold Woods Home Owners Association, a Michigan non-profit corporation**, on behalf of the corporation.



Gregory J. McCoy, Notary
Notary Public, Ottawa Co., MI
Acting in the County of Ottawa
My commission expires: 09/02/18

Prepared by:
Gregory J. McCoy
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