

SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

COUNTRY ACRES OF PLYMOUTH SUBDIVISION NO. 4 and 5

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "First Amendment") is made this \_\_\_\_\_ day of \_\_\_\_\_, 1999, by PULTE LAND DEVELOPMENT CORPORATION, a Michigan corporation, the address of which is 26622 South Woodward Avenue, Suite 204, Royal Oak, Michigan 48067 ("Developer").

R E C I T A L S:

A. In connection with the development of certain real property located in the Township of Plymouth, County of Wayne, State of Michigan, as a residential subdivision known as Country Acres Of Plymouth Subdivision No. 4, Developer recorded a certain Declaration Of Covenants, Conditions And Restrictions in Liber \_\_\_\_\_, Pages \_\_\_\_\_ through \_\_\_\_\_, inclusive, Wayne County Records which was subsequently amended by a First Amendment to Declaration of Covenants, Conditions and Restrictions recorded in Liber \_\_\_\_, Page \_\_\_\_, Wayne County Records, to add Subdivision No. 5 thereto (together the "Declaration"). Capitalized terms that are not otherwise defined in this First Amendment shall have the meanings given to such terms in the Declaration.

B. Pursuant to the terms of the RUD Agreement, Developer has reserved the right (but does not have the obligation) to add recreational facilities to the Project intended for the use of all owners of single family residential lots and/or condominium units in the Project.

C. Pursuant to the authority reserved Developer under Section 8.1 of the Declaration, Developer desires to amend the Declaration for the purpose of clarifying the rights and obligations of Developer, the Community Center Association (as hereinafter defined), and the Community Center Members (as hereinafter defined), in the event Developer elects to add recreational facilities to the Project as provided for herein.

D. If such recreational facilities are hereafter included in the Project, Developer shall form the Community Center Association as a non-profit corporation consisting of all owners of single family residential lots and/or condominium units within the Project. The Community Center Association shall have specific rights and obligations with respect to such recreational facilities, including the maintenance of such facilities and the ability to assess the Community Center Members for payment of such costs, and as otherwise provided for herein.

E. The purposes of the Community Center Association and the rights and obligations of the Community Center Members are to be set forth in each declaration of covenants, conditions and restrictions recorded by Developer with respect to a single family residential subdivision platted within the Project, as well as each master deed recorded by Developer with respect to a condominium project within the Project.

NOW, THEREFORE, Developer hereby declares that the Declaration is amended as follows:

1. **DEFINITIONS.** Article 1 of the Declaration is hereby amended by the addition of the following definitions:

**Section 1.19** "Community Center" shall mean the community center area(s) which Developer has reserved the right (but not the obligation) to include within the Project, including any recreational facilities constructed by Developer within such community center area(s), such as pools, tennis courts and related facilities, if any. The location of the Community Center, if any, shall be designated by Developer by further amendment to the Declaration.

**Section 1.20** "Community Center Association" shall mean Country Club Village Of Plymouth Community Center Association, a Michigan non-profit corporation which may be formed by Developer for the purposes described herein, and its successors and assigns.

**Section 1.21** "Community Center Member" shall mean a member of the Country Club Village Of Plymouth Community Center Association.

**Section 1.22** "Project Owner" shall mean the holder or holders of the record fee simple title to, and/or the land contract purchaser of, any lot or condominium unit located within the Project, whether one or more persons or entities, including, without limitation, the Owner of a Lot within the Subdivision. The term Project Owner shall not include any mortgagee or any other person or entity having an interest in a lot or condominium unit within the Project merely as security for the performance of an obligation, unless and until such mortgagee or other person or entity shall have acquired fee simple title to such lot or condominium unit by foreclosure or other proceeding or conveyance in lieu of foreclosure. If more than one person or entity owns fee simple title to a lot or condominium unit located within the Project, or in the event any lot or condominium unit is subject to a land contract, then the interests of all such persons or entities, and the interest of the land contract seller and purchaser, collectively shall be that of one Project Owner.

2. **COMMUNITY CENTER ASSOCIATION.** The Declaration is hereby amended by the addition of the following Article 3A:

**ARTICLE 3A**  
**COMMUNITY CENTER ASSOCIATION**

**Section 3A.1** Creation And Purposes. In the event Developer elects to designate a Community Center within the Project, Developer shall form a non-profit corporation in accordance with the Michigan Non-Profit Corporation Act, Act No. 162 of the Public Acts of 1982, as amended, which shall be known as Country Club Village of Plymouth Community Center Association or such other name as may be designated by Developer. The Community Center Association and the Community Center Members shall have those rights and obligations which are set forth in this Declaration and in the Articles of Incorporation and By-Laws of the Community Center Association.

The sole purpose of the Community Center Association shall be to maintain the Community Center for the common use of all residents and Project Owners, to arrange for the provision of services and facilities to the Community Center and, in general, to maintain and promote the desired character of the Community Center.

**Section 3A.2** Membership. Developer and every Owner shall be a member of the Community Center Association. Every Owner shall become a Member commencing on the date on which said Owner is conveyed fee simple title to a Lot, or, if applicable, the date on which a land contract purchaser enters

into a land contract to purchase a Lot. All membership rights and obligations shall be deemed a part of and may not be separated from, the ownership of any Lot. In addition, every other Project Owner shall also be a member of the Community Center Association. Accordingly, each declaration of covenants, conditions and restrictions that is recorded with respect to a single family residential subdivision platted within the Project and each master deed that is recorded with respect to a condominium project within the Project shall contain identical provisions as those contained in this Declaration pertaining to membership in, and the administration of, the Community Center Association.

**Section 3A.3 Voting Rights.** The Community Center Association shall have two (2) classes of voting members, which are as follows:

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

B. **Class B Votes.** Developer shall be a Class B Community Center Member. In order to assure the orderly development and maintenance of the Community Center, the Class B Community Center Member shall be entitled to three (3) votes for each lot and/or condominium unit owned by Developer within the Project as shown on the RUD Plan, whether or not final plats or master deeds for all phases of the Project have been recorded. Class B membership shall terminate as to any lots or condominium units owned by Developer at the time any such lot or condominium unit is sold and conveyed to a Project Owner other than Developer, which Project Owner shall thereafter be a Class A Community Center Member.

**Section 3A.4 Articles And By-Laws.** The Community Center Association shall be organized, governed and operated in accordance with its Articles of Incorporation and By-Laws, which shall be consistent with the provisions and purposes of the Declaration, as hereby amended, and the RUD Agreement. In the event there exists any conflict between the provisions contained within the Community Center Association's Articles of Incorporation and By-Laws, the provisions contained within this Declaration, and the provisions contained within the RUD Agreement, the provisions of the RUD Agreement shall control, followed in priority by the provisions of the Declaration, as hereby amended, and then the Articles of Incorporation and By-Laws.

**Section 3A.5 Directors.** The right to manage the affairs of the Community Center Association shall be exclusively vested in the Community Center Association Board of Directors. Developer or its designated representative shall be the sole Director until such time as one hundred (100%) percent of the lots and condominium units within the Project have been sold and conveyed by Developer, or until such earlier time as Developer may elect, in its discretion. Thereafter, the Board of Directors shall be elected by the Community Center Members of the Community Center Association in accordance with the provisions of the Articles of Incorporation and By-Laws of the Community Center Association.

3. COMMUNITY CENTER. The Declaration is hereby amended by the addition of the following Article 4A:

**ARTICLE 4A**  
**COMMUNITY CENTER**

**Section 4A.1 Right Of Community Center Members To Use Community Center.** In the event Developer elects to designate a Community Center within the Project, each Community Center Member of the Community Center Association shall have the right and non-exclusive easement to use the Community Center for the purposes provided herein. The Community Center Members' easement rights shall exist regardless of whether the Community Center is included in a particular final plat or master deed, and each Community Center Member's easement and right to use the Community Center shall be deemed a part of, and shall pass with title to, every lot and condominium unit, regardless of whether such easement is specifically referenced in the deed conveying such lot or condominium unit.

In addition, the Community Center shall be used subject to the following general provisions:

A. The Community Center Association shall have the right to establish non-discriminatory rules and regulations as the Board of Directors may deem necessary or desirable for the safe, orderly and convenient operation and use of the Community Center and for the proper maintenance, repair, and replacement of the Community Center and the improvements and facilities located thereon.

B. The Community Center Association shall have the right to suspend the voting rights of any Community Center Member and the right of any Community Center Member (including such Community Center Member's immediate family members) to use the Community Center, for: (i) any period for during which any assessment against such Community Center Member's lot or condominium unit, as the case may be, is delinquent; and (ii) a period not in excess of thirty (30) days for any infraction of any rules or regulations promulgated by the Board of Directors.

C. The Community Center Association shall have the right to charge reasonable admission and other fees for the use of the Community Center.

**Section 4A.2 Restrictions Regarding Community Center.** The Community Center and all improvements and facilities located thereon may be used for passive and active sports, for recreational, social, civic and cultural activities, and for the common use and enjoyment of the Community Association Members.

**Section 4A.3 Maintenance And Insurance Of Community Center.** The Community Center Association shall be responsible for the maintenance, repair, replacement and operation of the Community Center, subject to the ordinances, rules and regulations of governmental entities having jurisdiction over the Community Center and the provisions of the Declaration, as hereby amended. The Community Center Association shall at all times keep in full force and effect, with respect to the Community Center, comprehensive public liability and property damage insurance with limits as deemed appropriate by the Board of Directors.

**Section 4A.4 Title To Community Center.** At such time as the Community Center Association has been formed and organized, Developer may, in its sole discretion, convey title to the Community Center to the Community Center Association. In any event, Developer shall convey title to the Community Center to the Community Center Association not later than the date on which Developer conveys to a Project Owner the last lot or condominium unit in the Project in which Developer holds a fee title interest. The Community Center Association shall thereafter hold title to the Community Center for the benefit of the Project Owners. The foregoing conveyance shall be subject to the Project Owners' easement of enjoyment and any easements reserved, dedicated or granted by Developer.

**Section 4A.5 Community Center Easements.** Developer and the Community Center Association, and their agents and representatives, shall have a perpetual easement for reasonable access to the Community Center, at all reasonable times, for purposes of maintenance, repair, replacement, operation and improvement thereof.

Neither Developer nor the Community Center Association (following the conveyance by Developer to the Community Center Association of title to the Community Center) shall have the right to dedicate or transfer all or any part of the Community Center to the public use; provided, however, Developer and the Community Center Association (following the conveyance by Developer to the Community Center Association of title to the Community Center) shall have the exclusive right to reserve, dedicate and/or grant public or private easements within the Community Center for the construction, installation, repair, maintenance and replacement of rights-of-way, walkways, bicycle paths, water mains, sewers, storm drains, detention basins, electric lines, telephone lines, gas mains, cable television and other telecommunication lines and other public and private utilities, including all equipment, facilities and appurtenances relating thereto; provided such right is exercised in accordance with all applicable laws, rules and regulations, including the commencement of legal proceedings, if necessary. Developer and the Community Center Association (following the conveyance by Developer to the Community Center Association of title to the Community Center) reserve the right to assign any such easements to units of government or public and/or private utilities; provided such right is exercised in accordance with all applicable laws, rules and regulations, including the commencement of legal proceedings, if necessary. Developer and the Community Center Association (following the conveyance by Developer to the Community Center Association of title to the Community Center) may determine the location and configuration of such easements at its sole discretion.

**Section 4A.6 Action By The Township.** In the event the Community Center Association fails at any time to maintain or repair the Community Center in reasonable order and condition, the Township may so advise the Community Center Association and the Community Center Members by serving a written notice by First Class Mail upon the Resident Agent, or the last known address of the same, as registered with the State of Michigan. Such notice shall describe the deficiencies in reasonable detail and establish a time period in which the deficiencies shall be cured, which period shall not be less than thirty (30) days from the date of mailing of such notice. If such deficiencies are not cured within such period or, if such deficiencies are of such a nature that they cannot be cured within such period and a good faith effort to commence their cure is not made, the Township shall have the right, but not the duty, to enter upon the Community Center to eliminate any nuisance or other condition dangerous to public health, safety or welfare. The Township may assess the cost of such maintenance against the Community Center Association, and if not paid, against its Community Center Members equally in the same manner as taxes shall be assessed, and such assessment, if not paid, shall become a lien on the lots and condominium units in the Project.

4. **COVENANTS FOR MAINTENANCE AND CAPITAL CHARGES.** The Declaration is hereby amended by the addition of the following Article 5A:

**ARTICLE 5A**  
**COVENANTS FOR MAINTENANCE AND CAPITAL CHARGES FOR COMMUNITY CENTER**

**Section 5A.1 Creation Of The Lien And Personal Obligation For Assessments.** In the event Developer elects to designate a Community Center within the Project, then in addition to any and all assessments levied by the Association, each Project Owner other than Developer, by accepting title to a lot and/or condominium unit, or, by entering into a land contract for the purchase of a lot or condominium unit, shall be deemed to covenant and agree to pay to the Community Center Association, when due, the assessments described below, regardless of whether or not such covenant shall be expressed in such Project Owner's instrument of conveyance or land contract:

- A. annual assessments to meet regular Community Center Association expenses; and

B. special assessments for capital improvements, to be established and collected as set forth below; and

C. all other assessments for taxes, levies, assessments or other charges lawfully imposed or charged to the Community Center Association with respect to the Community Center.

The foregoing assessments, together with such interest thereon and costs of collection thereof (including court costs and reasonable attorneys' fees) which are described below, shall be a lien on the lot or condominium unit against which they are made and all improvements thereon. Each such assessment, together with interest thereon, and the costs of collection thereof, in addition to constituting a lien on such lot or condominium unit and improvements, shall also constitute a joint and several personal obligation of the person or persons who was/were the Project Owner(s) of the lot or condominium unit on the date the assessment was established.

**Section 5A.2 Purpose Of Annual Assessments.** The annual assessments levied under this Article 5A shall be used by the Community Center Association for the purpose of: (i) maintaining, repairing, replacing and operating the Community Center; and (ii) discharging any taxes, insurance premiums and mortgage installments relating to the Community Center.

**Section 5A.3 Annual Assessments.** Commencing in the year the Community Center Association is formed, and for each fiscal year of the Community Center Association thereafter, annual assessments shall be levied and paid in the following manner:

A. The Board of Directors of the Community Center Association shall levy against each lot and condominium unit within the Project an assessment, based upon the projected costs, expenses and obligations of the Community Center Association for the ensuing fiscal year, which assessment shall be a specified amount per lot or condominium unit. In the event the actual costs, expenses and obligations of the Community Center Association exceed the amount projected, the Board of Directors of the Community Center Association shall have the right to levy against each lot and condominium unit such additional assessments as may be necessary to defray such costs, expenses and obligations.

B. For the first year in which the Community Center Association is formed, the annual assessment per lot or condominium unit shall be determined by Developer in its sole discretion. Within thirty (30) days following the beginning of each fiscal year of the Community Center Association thereafter, the Board of Directors shall send a written notice of assessment to each Project Owner stating the amount of the assessment established by the Board of Directors for the ensuing year. Any annual assessment may not be increased by an amount in excess of twenty-five (25%) percent of the annual assessment for the preceding year without the affirmative vote of sixty (60%) percent of the total combined Class A Votes and Class B Votes, cast in person or by proxy at a meeting of the Community Center Association called for such purpose. The quorum requirements for such meeting shall be the same as those specified in Section 5A.4 below. Each Project Owner shall pay said assessment within thirty (30) days from the date said written statement is mailed. Assessments not paid within said thirty (30) day period shall be deemed delinquent and interest shall accrue on delinquent assessments at the interest rate established by resolution of the Community Center Association's Board of Directors, which interest rate shall not exceed the highest rate allowed by law.

C. Any Project Owner who acquires a lot or condominium unit from Developer or from a person or entity exempt from the payment of assessments under Section 5A.7(B) below, shall pay to the Community Center Association, on the date said lot or condominium unit is conveyed to the Project Owner, an amount equal to the prorated balance of any annual assessment and special assessment, if any, established for the then current assessment period, based upon the number of days remaining in the then current assessment period from the date of conveyance. For each fiscal year thereafter, such Project Owner shall be liable for any and all assessments levied in accordance with this Article 5A.

D. The fiscal year of the Community Center Association shall be established in the manner set forth in the Community Center Association's By-Laws.

E. The Community Center Association's Board of Directors, in its discretion, may establish an installment program for the payment of any regular, special or deficiency assessment and may charge interest in connection therewith.

**Section 5A.4 Special Assessments For Capital Improvements.** In addition to the annual assessments authorized by Section 5A.3 above, the Community Center Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any improvements or facilities on the Community Center, including any fixtures, equipment, and other personal property relating thereto; provided, however, that no such special assessment shall be levied unless first approved by sixty (60%) percent of the total combined Class A Votes and Class B Votes, cast in person or by proxy at a meeting of the Community Center Association duly called for such purpose. Written notice of such meeting shall be sent to each Project Owner at least thirty (30) days in advance of the meeting, which notice shall set forth the purpose of the meeting. Any such special assessments shall be due and payable according to the terms and conditions and in the manner specified in the resolution of the Community Center Association. Any special assessment not paid when due shall be deemed delinquent and interest shall accrue on such delinquent assessment at the interest rate established by resolution of the Community Center Association's Board of Directors, which interest rate shall not exceed the highest rate allowed by law.

The quorum required for the first meeting called for the purpose of voting on a special assessment shall be at least ninety (90%) percent of all the then authorized votes present, either in person or by proxy. If the required quorum is not present at the first meeting called for the purpose of considering the special assessment, another meeting may be called for said purpose, with notice thereof to be given as provided for in this Section 5A.4 and the required quorum at any such subsequent meeting shall be reduced to sixty (60%) percent of all then authorized votes present, provided that such second meeting is held within sixty (60) days from the date of the first meeting.

**Section 5A.5 Uniform Assessment Rate.** All annual, special and deficiency assessments of the Community Center Association shall be fixed and established at the same rate for all lots and condominium units within the Project and shall be calculated based upon the total number of lots and condominium units within the Project as shown on the RUD Plan, whether or not final plats or master deeds for all phases of the Project have been recorded.

**Section 5A.6 Certificate With Respect To Assessments.** Upon the written request of any Project Owner, the Community Center Association shall furnish, within a reasonable time, a written certificate regarding the status of any assessments levied against such Project Owner's lot or condominium unit. Any such certificate, when properly issued by the Community Center Association, shall be conclusive and binding with regard to the status of the assessment as between the Community Center Association and any bona fide purchaser of said lot or condominium unit described in the certificate and the lender who has taken a lien on said property as security for the repayment of a loan.

**Section 5A.7 Exemptions From Assessments.**

A. All lots and condominium units owned by Developer shall be exempt from all annual, special and deficiency assessments. Upon conveyance of any lot or condominium unit by Developer to a Project Owner, the exemption for each such lot or condominium unit shall thereupon cease and such lot or condominium unit shall then be liable for the prorated balance of that fiscal year's established annual assessment and special assessment, if any. Notwithstanding the foregoing, however, any lots and condominium units owned by Developer shall not be exempt from assessments by the Township for real property taxes and other charges.

B. Builders, developers and real estate companies who own or hold any lot(s) or condominium unit(s) for resale to customers in the ordinary course of business shall not be liable for the payment of any annual, special or deficiency assessments imposed by the terms of this Article 5A; provided, however, that any exemption established by this Section 5A.7(B) shall cease and terminate as to any lot or condominium unit in the event construction is not commenced within two (2) years from the date the lot or condominium unit is acquired by such builder, developer or real estate company.

**Section 5A.8 Subordination Of Liens To Mortgages.** The lien for assessments provided for in this Article 5A shall be subordinate to the lien of any mortgage or mortgages held by any bank, savings and loan association, insurance company, mortgage company or other similar institution existing of record at the time the lien for assessments shall be imposed. Sale or transfer of a lot or condominium unit, or any portion thereof, shall not affect the assessment lien. However, the sale or transfer of any lot or condominium unit in connection with a mortgage foreclosure proceeding, or any proceeding in lieu thereof, shall extinguish the lien of the assessments, interest and charges, which became due prior to such sale or transfer, but in no such event shall the prior Project Owner of said lot or condominium unit be relieved of any liability for such obligations and debts. No sale or transfer pursuant to any foreclosure proceeding, or any proceeding in lieu thereof, shall relieve any lot or condominium unit from any assessments thereafter levied or from the lien accruing from such assessments, and no subsequent sale or transfer shall release such lot or condominium unit from liability for any assessment, interest or charges which thereafter become due or from any lien therefor.

**Section 5A.9 Collection Of Assessment And Creation Of Lien.** If any assessment is not paid within thirty (30) days from the date payment is due, the Community Center Association may sue the Project Owner and obtain a personal judgment against said Project Owner and/or may enforce the lien in the same manner as, and by following similar procedures which are required for, the foreclosure of mortgages, whether by advertisement or judicial action, including the allowance of such costs and reasonable attorneys' fees as would be taxable in the foreclosure of a mortgage.

5. **GENERAL PROVISIONS.** The Declaration is hereby amended by the addition of the following Article 8A:

**ARTICLE 8A  
GENERAL PROVISIONS**

**Section 8A.1 Amendment.** Notwithstanding anything to the contrary contained in Article 8 of the Declaration, the provisions of Articles 3A, 4A, 5A and this 8A shall not be amended unless each and every subdivision and condominium project located within the Project properly adopts the same amendment(s) to their respective declarations of covenants, conditions and restrictions and/or master deeds.

6. **RATIFICATION.** To the extent not modified by this First Amendment, the terms and provisions of the Declaration shall continue in full force and effect and are hereby ratified.

**THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** was executed as of the date and year first set forth above.

WITNESSES:

PULTE HOMES OF MICHIGAN CORPORATION,  
a Michigan corporation

By: \_\_\_\_\_  
Peter J. Keane

Its: \_\_\_\_\_  
Director Of Finance



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STATE OF MICHIGAN )  
 )ss.  
COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1999,  
by Peter J. Keane, the Director Of Finance of Pulte Homes Of Michigan Corporation, a Michigan corporation,  
on behalf of the corporation.

\_\_\_\_\_  
Notary Public, Oakland County, MI  
My Commission Expires: \_\_\_\_\_

DRAFTED BY AND WHEN  
RECORDED RETURN TO:

CLARK G. DOUGHTY, ESQ.  
Seyburn, Kahn, Ginn, Bess,  
Deitch And Serlin, P.C.  
2000 Town Center  
Suite 1500  
Southfield, Michigan 48075-1195

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

LAND IN THE TOWNSHIP OF PLYMOUTH, WAYNE COUNTY, MICHIGAN, DESCRIBED AS: