

DECLARATION OF COVENANTS AND RESTRICTIONS

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ROCHESTER HILLS EXECUTIVE PARK DECLARATION OF COVENANTS AND RESTRICTIONS

This Declaration of Covenants and Restrictions is made this 23 day of DECEMBER, 1992 by Rochester Hills Executive Park, a Michigan joint venture having an office at 850 Stephenson Highway, Suite 600, Troy, Michigan 48083.

WHEREAS, Rochester Hills Executive Park, a Michigan joint venture, is the owner of the real property described in attached Exhibit A (the "Land") and,

WHEREAS, it is the intention of Rochester Hills Executive Park to develop the Land as an industrial park known as Rochester Hills Executive Park (the "Park"), containing industrial facilities of harmonious structural and architectural design and suitable landscaping, and to adopt a general plan of improvement for the benefit of all of the Land and the future owners thereof as hereinafter set forth.

NOW, THEREFORE, it is hereby declared (subject to the provisions of Section F below) that the Land is held and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following conditions, restrictions and covenants in furtherance of a plan for the division, improvement and sale of the Land, which are established for the purpose of enhancing the value, desirability and attractiveness of the Land. The conditions, restrictions and covenants herein contained are hereby expressly made an essential part of this instrument and shall be and remain in full force and effect in respect to the said premises and the parties herein designated, their and each of their successors, heirs and assigns until the expiration thereof as hereinafter stated.

All of the conditions, covenants and restrictions shall run with the Land and shall be binding on all parties having or acquiring any right, title or interest in the Land, or any part hereof. They shall be for the benefit of each owner of any portion of the Land or any interest therein and shall inure to the benefit of and be binding upon each successor in interest of the owners thereof.

A. Definitions.

1. The "Developer" shall mean:

- (a) Rochester Hills Executive Park, a Michigan joint venture, its successors and assigns;

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- (b) Any partnership, joint venture, corporation, association or trust controlled by Rochester Hills Executive Park, a Michigan joint venture, or by which Rochester Hills Executive Park has been acquired, provided it has been granted of record by Rochester Hills Executive Park the exclusive right to act hereunder;
 - (c) Any association, organized by a majority of owners of record of the Land for the purpose of maintaining and enforcing the restrictions as set forth in Section B herein and provided Rochester Hills Executive Park or its successor has granted to said association the exclusive right to act hereunder;
- 2. "Site" means an area of the Land in the same ownership or subject to the same leasehold interest;
 - 3. "Site Area" shall be the square footage of the Land in the same ownership which shall include easements, rights of way and property thereafter taken for streets or railroads whether by condemnation or dedication.

B. Restrictions.

- 1. All structures and improvements constructed or erected on a Site shall comply with applicable ordinances, rules, regulations and codes. Moreover, no structure or any portion thereof shall be constructed on any Site within fifty (50) feet of any street in existence at the time of construction, or within fifteen (15) feet of its side lot lines and twenty (20) feet of its rear lot lines, nor shall more than fifty percent (50%) of any Site be covered by structures. No parking surfaces shall be constructed within the front set back area.
- 2. Exterior walls of buildings shall be constructed of durable permanent materials, tastefully handled (face brick, treated concrete or other architectural exterior surfaces or approved equal material). All exposed masonry surfaces except brick and stone must be painted.
- 3. No building having barrel-type or arch-type roof construction shall be built on any Site.
- 4. All set back areas from streets other than paved driveways and paved walks, must be in lawns and

landscaping and be irrigated via underground sprinkler systems. All landscaped areas must be maintained in a park-like manner. All landscaping and irrigation plans must be approved by the Developer and implemented within one (1) year after approval.

5. Overhead electric power lines are located on rear property lines. Overhead electric service entrances shall be located at the rear of the structure. If electric service entrances are forward of the rear building wall, electric service entrances shall be underground. All other overhead utility services shall comply with the electric service entrance standards.
6. All vertical roof projections over eighteen (18) inches in height must be set back a minimum of twenty (20) feet from the face of the exterior walls; in no event may such projections, for equipment or otherwise, exceed five (5) feet in height on any office roof.
7. All parking and truck maneuvering areas shall be surfaced with bituminous concrete, asphalt or approved comparable all-weather dustless material.
8. Outside storage shall comply with applicable ordinances, rules, regulations and codes and, in any event, shall be permitted on the rear lot areas only, and all such storage shall be properly fenced and screened with approved material to a minimum height of six (6) feet and a maximum height of ten (10) feet. Under no circumstance may materials or equipment in excess of ten (10) feet in height be stored outdoors.
9. Signs must be for identification only, must be located on the exterior building walls and cannot project above the roofline. They may not exceed a height of four (4) feet and a total area of forty (40) square feet. All lettering is to be open and of metallic material. Only individual (i.e., unconnected) letters may be used on signs. Flashing signs and ground signs are not permitted. All exterior signs must be approved by the Developer.
10. The exterior of all structures and all walks, driveways, lawns and landscaping on each Site shall be maintained in good order, repair and condition and all exterior painted surfaces shall be maintained in first-class condition and shall be repainted at least once in every four (4) years.

11. All provisions of the zoning codes and ordinances in effect at the time of conveyance shall be maintained and owners of Sites shall not petition for variation or other relief with respect to such zoning codes and ordinances without prior written approval of the Developer.
12. No open loading dock or truck loading doors shall be erected on the sides of buildings fronting on any street.
13. Uses for Sites shall be restricted to manufacturing, assembly, processing, storage, wholesale, office, laboratory, professional research and development activities; there shall be no junk or salvage yard or rendering plant, or such other use which will be offensive to the neighborhood by reason of odor, fumes, dust, smoke, noise, or pollution, or such use as would be hazardous by reason of danger of fire, explosion or contamination. Uses for retail purposes shall be limited to sales of goods and services reasonably required for the convenience of occupants of the Land, such as restaurants, drug stores, barber and beauty shops, shoe repair shops, cleaners, post offices, banks, department and hardware stores: no retail or wholesale use shall be undertaken unless and until same shall have been approved in the manner hereinafter provided (See Section C below).
14. No buildings, structures or exterior signs shall be erected, altered, or added to or improved in any fashion on any Site on the Land until the building plans and specifications, landscaping plan, and site plan showing the location of such building or addition or improvement or alteration have been approved by the Developer in writing as to architectural design and to conformity and harmony of external design to existing structures, and as to location of the building with respect to topography and finished ground elevation, and in conformance with all other restrictions of record, as aforesaid. All blueprints, specifications, and plans submitted under this provision shall be retained by the Developer.
15. There exists within the Land a certain storm drainage retention basin (the "Basin"), which Basin is more particularly described in attached Exhibit B. The Basin shall be used for the sole purpose of the retention of surface water until such time as

the City of Rochester Hills (the "City") may determine and signify by written notice to the Developer and its successors and assigns, if any, that it is no longer necessary to utilize the Basin for the retention of surface water. In no event shall the Basin be utilized for any purpose other than the retention of surface water without the prior written agreement of the Developer and the City. Notwithstanding the foregoing, the Developer may use water from the Basin for purposes of irrigation. The discharge of sewage or industrial waste of any kind into the Basin is prohibited.

16. Accumulations of snow and ice on parking lots and drives must be removed by shovel, plow or salt. Only the minimum amount of salt necessary for the removal of snow and ice may be used.
17. Trees bordering the Basin shall not be removed so long as such trees do not materially interfere with the intended use of a Site.
18. No owner(s) of a Site shall spill, leak, introduce, discharge or release any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq. ("CERCLA"), or any pollutant or contaminant of any kind in, on or under the Land or any portion thereof, or to the air or permit the discharge thereof into the sanitary or storm sewer or water systems serving the Land and/or a Site or into any municipal or other governmental water system or storm and/or sanitary sewer system without complying with all applicable federal, state and local laws and regulations, and without first obtaining any necessary license, permit or other approval of all governmental agencies having jurisdiction thereover. No owner(s) of a Site shall store or treat any hazardous waste, oil or polluting materials on or under the Land or a Site without complying with all federal, state and local laws and ordinances, and without first obtaining all necessary licenses and permits.

All safeguards and procedures necessary or appropriate to protect such systems from contamination shall be employed by the owner(s) of each Site. A copy of any violation, permit, approval or license issued by any federal, state or local government pursuant to any storage, discharge or treatment of any such pollutant or contaminant or violation of any such law or regulation shall be

provided by the owner(s) of each Site to the Developer promptly upon receipt thereof. Notwithstanding anything contained herein to the contrary, it shall be the sole responsibility of the owner(s) of any particular Site to obtain (and thereafter achieve and maintain compliance therewith) all necessary permits, licenses and authorizations as may be required by applicable laws, regulations, rules and ordinances; nothing contained herein shall be deemed to impose such obligations upon the Developer. The owner(s) of any particular Site shall be solely responsible, at its/their cost and expense, for the control and proper handling of any toxic chemicals or other substances used or stored on such Site and each such owner shall undertake, at its sole cost and expense, any necessary and/or appropriate clean-up process in connection with the foregoing covenant, and shall indemnify and hold the Developer harmless from and against all liability, whether direct, indirect, consequential or otherwise, arising from any incident or occurrence on or about the Site or the Land, attributable in whole or in part to such owner, whether such owner has obtained any approval, license or permit issued by any governmental authority having jurisdiction thereof and pertaining to any hazardous substance as defined in CERCLA or any relevant state or local rule, regulation or ordinance. The obligation of a Site owner under this Paragraph 18, including without limitation, the foregoing indemnity, shall survive the expiration or earlier termination of this Declaration of Covenants and Restrictions, anything to the contrary contained herein notwithstanding.

C. Approvals, Variances and Waivers.

1. The Developer shall have the exclusive right to grant approvals required by these restrictions and to waive or vary restrictions in particular respects whenever in its opinion and sole discretion such waiver or variance will not be detrimental to the Land.
2. All persons having an interest in any Site may rely upon the approval signed by the Developer purporting to grant an approval or to waive or vary restrictions in particular respects.
3. If building plans, specifications and plot plan have been submitted to the Developer for approval, and no written notice of disapproval has been given by the

Developer within sixty (60) days thereafter, all construction other than exterior signs, driveways, parking areas, grading, landscaping, fences and screens completed for more than three (3) months shall be deemed approved unless prior to the expiration of such period a suit for enforcement of the restrictions contained herein has been commenced and notice thereof duly recorded.

D. Owner's Association.

1. In accordance with the terms of a certain Agreement for Maintenance of Retention Basin dated August 10, 1984 and recorded in Liber 8845, Page 460 in the Office of the Oakland County Register of Deeds, the Developer intends (and hereby reserves the right) to (i) establish a Drainage District which shall utilize the Basin (the size and location of such Drainage District being subject to the approval of the City) and (ii) incorporate a Michigan nonprofit membership corporation to serve as the Owner's Association (the "Association") for the purpose of (i) maintaining the Basin in accordance with the terms of the Agreement and this Declaration of Covenants and Restrictions and (ii) maintaining, repairing and replacing the landscaping within the Park (the "Landscaping") and the entranceways to the Park (the "Entranceways").
2. The members of the Association shall consist of the owners of Sites within the Park. The Association shall be subject to such provisions as may be established by the Bylaws or Articles of Incorporation of the Association, which the Developer reserves the right to prepare and to amend or modify.
3. The Association shall have the right to make reasonable rules and regulations relating to the maintenance of the Basin and the maintenance, repair and replacement of the Landscaping and the Entranceways. All persons and/or entities having an ownership or leasehold interest in a Site shall abide by and observe such rules and regulations.

E. Enforcement

1. All of the provisions herein contained shall run with the Land and shall be specifically enforceable.
2. So long as there is a Developer, as defined above, it shall have the exclusive right to enforce the

provisions hereof without liability for failure to do so, except that each owner of record of any portion of the Land shall have the right to enforce the provisions hereof then applicable to any Site if the Developer shall fail to do so within thirty (30) days after written request from any such owner and providing said the Developer has not waived such provisions complained of prior thereto.

3. If there ceases to be a Developer, or if there is for any reason no "Developer" as defined herein, each owner of record of any portion of the Land shall have the right to enforce the restrictions then applicable to any site without liability providing said restrictions have not been waived prior thereto.
4. A person having an interest in any Site who violates the restrictions set forth in Section B above shall indemnify and hold harmless the Developer, other persons having an interest in a Site and their respective successors and assigns from any claims, costs, causes of action, damages, judgments, obligations or expenses, including reasonable attorneys' fees, arising out of any damage to property or harm to any person incurred in connection with or as a result of such person's negligence or any act or omission arising from the exercise of the restrictions set forth above. The terms and provisions of this paragraph shall survive the termination of this Declaration of Covenants and Restrictions.

F. Limitations

The provisions of this Declaration of Covenants and Restrictions shall run with the and bind the Land until December 31, 2020, whereupon they shall be extended automatically for successive periods of ten (10) years.

IN WITNESS WHEREOF, the undersigned have executed this Declaration of Covenants and Restrictions as of the date first written above.

WITNESSES:

ROCHESTER HILLS EXECUTIVE PARK,
a Michigan joint ventureBY: RHEP LIMITED PARTNERSHIP, a
Michigan limited partnership
Its: Joint VenturerBy: Damone/Andrew
Investment Co., Inc.
Its: General PartnerBy: Michael G. Damone
Michael G. Damone
Its: PresidentAnd
By: Daniel R. Andrew
Daniel R. Andrew
Its: General PartnerAnd
By: Michael G. Damone
Michael G. Damone
Its: General PartnerSTATE OF MICHIGAN)
COUNTY OF OAKLAND) ss.

The foregoing instrument was acknowledged before me this 22nd day of December, 1992 by Michael G. Damone, the President of Damone/Andrew Investment Co., Inc., a general partner of RHEP Limited Partnership, a Michigan limited partnership, one of the joint venturers of Rochester Hills Executive Park, a Michigan joint venture, on behalf of such joint venture.

RUTH M. MARZ
Notary Public, Macomb County, MI
My Commission Expires July 16, 1994

Ruth M. Marz
Notary Public, Macomb County,
Michigan

My Commission Expires: July 16, 1994

9 Acting in Oakland County, MI

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 22nd day of December, 1992 by Daniel R. Andrew, a general partner of RHEP Limited Partnership, a Michigan limited partnership, one of the joint venturers of Rochester Hills Executive Park, a Michigan joint venture, on behalf of such joint venture.

RUTH M. MANZ
Notary Public, Macomb County, MI
My Commission Expires July 16, 1994

Ruth M. Manz

Notary Public, Macomb County,
Michigan

My Commission Expires: July 16, 1994
Acting in Oakland County, MI

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 22nd day of December, 1992 by Michael G. Damone, a general partner of RHEP Limited Partnership, a Michigan limited partnership, one of the joint venturers of Rochester Hills Executive Park, a Michigan joint venture, on behalf of such joint venture.

RUTH M. MANZ
Notary Public, Macomb County, MI
My Commission Expires July 16, 1994

Ruth M. Manz

Notary Public, Macomb County,
Michigan

My Commission Expires: July 16, 1994
Acting in Oakland County, MI

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DRAFTED BY AND WHEN
RECORDED, RETURN TO:

Michael A. Lesha, Esq.
Dykema Gossett
35th Floor - 400 Renaissance Center
Detroit, Michigan 48243

EXHIBIT A - LEGAL FOR LAND

Lots 1 through 37, inclusive, and one private park of Rochester Hills Executive Park, a part of the S.W. 1/4 of Section 29, and a part of the S.E. 1/4 of Section 30, T.3N., R.11E., City of Rochester Hills, Oakland County, Michigan, as recorded in Liber 199, Pages 26 through 30, inclusive, Oakland County Records.

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Lot 1 15-30-476-017
 Lot 2 \
 Lot 3 15-30-476-016
 Lot 4 ✓
 Lot 5 15-30-476-015
 Lot 6 15-30-476-015 & 014
 Lot 7 15-30-476-014 & 020
 Lot 8 15-30-476-020
 Lot 9 15-30-476-020 & 019
 Lot 10 15-30-476-019
 Lot 11 15-30-476-019 & 018
 Lot 12 15-30-476-018 & 008
 Lot 13 15-30-476-008
 Lot 14 15-30-402-001
 Lot 15 15-30-402-001
 Lot 16 15-30-402-001 & 002
 Lot 17 15-30-402-003 & 002
 Lot 18 15-30-402-003 & 15-29-302-001
 Lot 19 15-30-402-003 & 15-29-302-001
 Lot 20 15-29-302-001 & 15-29-302-002
 Lot 21 15-29-302-002
 Lot 22 15-29-302-002 & 003
 Lot 23 15-29-302-003 & 004
 Lot 24 15-29-302-004
 Lot 25 15-29-302-004
 Lot 26 15-29-302-004
 Lot 27 15-29-352-005
 Lot 28 15-29-352-005 & 004
 Lot 29 15-29-352-003
 Lot 30 15-29-352-002
 Lot 31 15-29-352-001
 Lot 32 15-30-477-001
 Lot 33 15-30-477-002
 Lot 34 15-30-477-003
 Lot 35 15-30-477-004
 Lot 36 15-30-477-005
 Lot 37 15-30-477-007

EXHIBIT B - LEGAL FOR BASIN

LIBER 13241 382

One private park within Rochester Hills Executive Park, a part of the S.W. 1/4 of Section 29, and a part of the S.E. 1/4 of Section 30, T.3N., R.11E., City of Rochester Hills, Oakland County, Michigan, as recorded in Liber 199, Pages 26 through 30, inclusive, Oakland County Records.

15-30-477-006 Executive Watershed Park
199026