

CARLETON PLACE SUBDIVISIONS

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS
FOR CARLETON PLACE SUBDIVISION**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS for CARLETON PLACE SUBDIVISION (the "DECLARATION") is made this ____ day of _____ 2021, by the Carleton Place Subdivision Association (the "Association"), whose address is c/o Alfred Gunther, P.O. Box 46098, Mt. Clemens, MI 48046

RECITALS:

WHEREAS, Carleton Place LLC, a Michigan limited liability company ("Carleton") was the original Declarant and Grantor of CARLETON PLACE SUBDIVISION and (by Lombardo Management, Inc., a Michigan Corporation) who together with others of record developed a certain piece of land as surveyed, divided, mapped and caused to be recorded the Plat thereof on August 30, 2001 in Liber 151 of Plats, Pages 44 through 53, inclusive, Macomb County Records;

WHEREAS, Carleton Place LLC created the Declaration of Restrictions for CARLETON PLACE SUBDIVISION dated September 13, 2001, which was recorded on October 4, 2001, in Liber 10814, Pages 147-166 both inclusive, Macomb County Records (the "Original Declaration"), a First Amendment to Carleton Place Declaration of Restrictions, dated September 2, 2003, recorded September 4, 2003 in Liber 14162, Page 440, Macomb County Records was executed by the Carleton Place Association;

WHEREAS, by virtue of the aforesaid Original DECLARATION, as amended, the CARLETON PLACE SUBDIVISION is subject to the terms of the Original Declaration and Amended Declaration, as amended;

WHEREAS, the Association's Board of Directors has proposed certain changes to the terms of the Original DECLARATION, as amended, which are contained herein, and which have been approved by both the Owners of CARLETON PLACE SUBDIVISION via a written instrument signed by the Owners of not less than seventy (70%) percent of the Lots in the Subdivision, in accordance with Article VIII, Section 3 of the Original DECLARATION; and

WHEREAS, the Association desires to promote the proper use, aesthetics and economic value of the Property; protect the Owners of the Property against improper use of surrounding Lots and/or parcels as may depreciate the value of the Property; guard against the construction of buildings with improper or unsuitable materials; promote adequate and reasonable development of the Property;

encourage the construction of attractive improvements on the Property and establish appropriate locations of such improvements to secure and maintain proper setbacks from the streets and adequate free spaces between structures; promote high standards of maintenance and operation of open areas, facilities and services for the benefit and convenience of all Owners of the property and all residents; and, in general, provide for private residential Subdivision of the highest quality and character.

NOW, THEREFORE, the Association hereby re-declares and affirms that the real property known and dedicated as CARLETON PLACE SUBDIVISION is, and any parcels and/or Lots into which the Property may be divided is, and shall be, held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions, reservations and grants hereinafter set forth, together with such other conditions, covenants, restrictions, reservations and grants which are set forth hereinafter and does reassert, reallege and preserve all covenants, conditions, restrictions, uses, limitations, and affirmative obligations set forth with respect to the Property; all of which conditions, covenants, restrictions, reservations and grants are for the benefit of and shall run with and bind the Property and all parties having any right, title or interest in the Property or any part thereof, or improvements thereon, as well as their heirs, successors and assigns.

ARTICLE I

PROPERTY SUBJECT TO THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIONS

The Property which is subject to and which shall be held, transferred, sold, conveyed and occupied pursuant to this Amended and Restated Declaration of Restrictions is more particularly CARLETON PLACE SUBDIVISION described as:

Lots 1 through 95, both inclusive, Carleton Place Subdivision, according to the Plat thereof recorded in Liber 151, Pages 44 through 53, both inclusive, of Plats, Macomb County Records (the "Subdivision").

Lot 93 of Carleton Place Subdivision contains an existing dwelling and is specifically excluded from membership in the Association and the restrictions and assessments imposed by this Declaration. None of the restrictions or obligations contained in this Declaration shall apply to Lot 93; provided, however, a landscape easement shall exist over Lot 93 (as shown on the Plat) and the easement provisions contained in Article III below shall apply to Lot 93. Lots 94 and 95 which front Card Road shall comply with the restrictions of this Subdivision contained in this Declaration, but shall not be required to pay any assessments levied upon Lots in this Subdivision under this Declaration.

ARTICLE II

PROPERTY RIGHTS

The Association shall be permitted to enter upon those portions of Lots 1, 93, 94 and 95, as described on the Plat of the Subdivision as may be necessary to install, repair, replace, and maintain such signs, walls, lighting, sprinkling systems, and planting, if any, hereinafter collectively referred to as the "Landscape Easement", in accordance with the landscaping plan approved by Macomb Township and reflected on Exhibit B as the 'CARLETON PLACE COMMONS' on page 1 of 10 and as defined in the Proprietor Certificate on Page 8 and 9 of 10, CARLETON PLACE SUBDIVISION PLAT, Liber 151 of Plats, pages 44 – 53, both inclusive, Macomb County Records.

In the event the Association shall, at any time, fail to maintain the Landscape Easement, then, Macomb Township ("Township") is authorized to enter the Landscape Easement to maintain the same. The Township shall serve notice by first-class mail to the Owner(s), appearing on the

Township tax rolls, of each Lot in the Subdivision. The notice shall include a demand that deficiencies in the maintenance be cured within thirty (30) days thereof and notify the Owners of the date, time, and place of a public hearing before the Township Board of Trustees or such other boards or body of officials to whom the Township may delegate such responsibility. The hearing shall be held within fifteen (15) days of the notice. At the hearing the Township may modify the terms of the original notice of deficiencies in maintenance and may grant an extension of time within which the deficiencies shall be cured. If the deficiencies, set forth in the original notice or in the modification thereof, are not cured within thirty (30) days or any extensions of time granted at the hearing, the Township, in order to eliminate and cure the deficiencies in the operation and maintenance of the Landscape Easement, may enter upon the property and maintain the Landscape Easement for a period of up to one (1) year. Maintenance of the Landscape Easement by the Township shall not constitute a taking of the Landscape Easement nor vest in the public any additional right to use the same.

Within sixty (60) days prior to the expiration of the aforesaid one (1) year period, that the Landscape Easement is under the control and jurisdiction of the Township, a majority of the Lot Owners or the Association may request another public hearing be held or the Township may call another public hearing upon notice in the same manner as set forth above. At the hearing the Association or Lot Owners shall show cause why maintenance by the Township shall not continue for a succeeding one (1) year period. If the Township shall, reasonably, determine that the Association and/or Lot Owners are ready, willing, and able to maintain the Landscape Easement, the Township shall cease to operate and maintain the Landscape Easement at the end of said year. If the Township shall reasonably determine that the Association or Lot Owners are not ready, willing, and able to maintain the Landscape Easement during the next succeeding year, then subject to a similar public hearing and determination in each successive year thereafter, the Township may continue to enter upon and maintain said Landscape Easement.

Should deficiencies in the maintenance of the Landscape Easement be determined by the Township to constitute an impending danger to health, safety, and welfare of the public, or a public, or private nuisance, the Township shall have the right to take immediate correction action and summarily abate such danger or nuisance.

The Association and/or Lot Owners shall hold harmless, defend, and indemnify the Township from any and all claims, demands, costs, expenses, including attorney fees, and judgments, whatsoever, which may arise from the Township's maintenance of the Landscape Easement.

The actual costs and expenditures, including administration expenses and attorney fees, incurred by the Township as a result of its maintenance of the Landscape Easement or the immediate abatement of an impending danger or nuisance in relation thereto, shall be at the expense of the Association or the Lot Owners and such costs and expenditures shall be assessed against the Lots in the Subdivision and become due, collected and returned for no- payment in the same manner and at the same time as ad valorem property tax levies of the Township.

The Township, at its option, shall be subrogated to any rights the Association may have in this Declaration for the imposition of assessments and the collection thereof in relation to the Landscape Easement.

The maintenance provisions contained in this Article, or section, shall not be amended in any way without the prior written consent of the Macomb Township Board of Trustees.

ARTICLE III

HOMEOWNERS ASSOCIATION

Section 1. Creation and Purposes. The Community is and shall be managed by the Carleton Place Subdivision Association, a Michigan non-profit corporation created in accordance with the Michigan Non-Profit Corporation (MCL 450.2101 et. seq.) Act.

The Association and its Members shall have those rights and obligations which are set forth in this Amended and Restated Declaration of Restrictions, the Restated Articles of Incorporation, the Amended and Restated Bylaws and any Community Documents of the Association.

The purposes of the Association shall be to:

(a) maintain the Common Areas for the common use, safety, enjoyment and benefit of all residents and Lot Owners, and to arrange for the provision of services and facilities of common benefit;

(b) to insure, maintain, repair, replace and administer the Community for the common benefit of Lot Owners, to arrange for the provision of services and facilities to the Community, and, in general, to maintain and promote the desired character, aesthetics and economic value of the Community;

(c) to control the specifications, architecture, design and appearance of all building and improvements of any type to the Community so as to ensure proper use and appropriate development and maintenance thereof consistent with a harmonious general plan of aesthetics, economics and beneficial improvement for the Subdivision; and

(d) to perform all of the functions contemplated of the Association as set forth herein and the Community Documents and in general to maintain and promote the desired character of the Subdivision.

Section 2. Membership. Every Lot Owner (except Lot 93) of CARLETON PLACE SUBDIVISION shall be a Member of the Association. Each such Lot Owner shall become a Member commencing upon the date on which the Owner acquired fee simple title to a Lot in the Subdivision, the date upon which the Owner acquires a land contract purchaser's interest in a Lot. Both land contract vendees and vendors shall be considered "Owners," and shall be jointly and severally liable for all obligations and responsibilities of Owners under the Community Documents.

All membership rights and obligations of a Member of the Association shall be appurtenant to and may not be separated from the ownership of any Lot and any debt or obligation shall survive the termination of any Lot Owner's interest in any Lot.

Section 3. Voting Rights. The Association shall have one (1) class of voting membership. Each Lot shall be entitled to one (1) vote. A Member shall be entitled to one (1) vote on each matter submitted to a vote of the Members for each Lot owned by the Member. The voting rights of Members shall be as further set forth in the Association's Restated Articles of Incorporation and Amended and Restated Bylaws and the Community Documents.

Section 4. Articles and Bylaws. The Association shall be organized, governed and operated in accordance with its Restated Articles of Incorporation and Amended and Restated Bylaws, which

shall be consistent with the provisions and purposes of this Amended and Restated Declaration of Covenants, Easements and Restrictions.

Section 5. Directors. The right to manage the affairs of the Association shall be exclusively vested in the Association's Board of Directors. The Directors shall be elected by the Members in accordance with the provisions of the Restated Articles of Incorporation and Amended and Restated Bylaws of the Association. The eligibility requirements, voting rights, powers, duties, and other relevant provisions regarding Directors and the operations of the Board shall be set forth in the Amended and Restated Bylaws and Community Documents.

ARTICLE IV COMMON AREAS

Section 1. Right of Members to Use Common Areas. Each Member of the Association shall have the right and non-exclusive easement to use any Common Areas for the purposes provided herein and as reflected on the Plat. Such right and easement shall be appurtenant to, and shall pass with the title to, every Lot, regardless of whether any such easement is specifically referenced in any deed or instrument conveying such Lot.

Members shall not in any way alter or modify any Common Areas, or place any improvements, fixtures or personal property of any kind in said Common Areas, without first obtaining the express prior written consent of the Board of Directors.

Section 2. Common Areas. The Association shall be responsible for the maintenance and preservation of any Common Areas, subject to the Ordinances, rules and regulations of governmental entities having jurisdiction over the Common Areas, and the provisions of this Amended and Restated Declaration of Covenants, Easements and Restrictions, and any maintenance and/or easement agreements entered into and of record between the Plat Proprietors and/or the Association and any governmental entity with respect to any portion of Common Areas and the Plats.

The Association shall have the right to establish additional Rules and Regulations with respect to the Subdivision and Common Areas as the Board of Directors may deem necessary or desirable to insure the proper preservation, aesthetics and functioning of the Subdivision and Common Areas.

Section 3. Storm Water and Drainage. The Association and its Members shall comply with all Township and County requirements pertaining to the storm water drainage and the Miller Drain, a County Drain according to the Affidavit as recorded in Liber 3213, Page 962, Macomb County Records.

The Association shall have the right to establish additional Rules and Regulations with respect to the Storm Water and Drainage Areas as the Board of Directors may deem necessary or desirable.

Section 4. Natural Drainage Ways. Where there exists on any Lot(s) a condition of accumulation of storm water remaining over an extended period of time, the Lot Owner may, with the written approval of any applicable governmental entity or regulation, take such steps as shall be necessary to remedy such condition, subject to the provisions of elsewhere herein and provided that no obstructions or diversions of existing storm drain swales and channels, over and through which storm water naturally flows upon or across any Lot, shall be made by an Lot Owner in a manner as to cause damage to other property or Lots.

Section 5. Sight Distance at Intersections. 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. 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 6. Title to Common Areas. The Association may hold title to any Common Areas for the benefit of the Owners. The Association's title shall be subject to the Owners' easement of enjoyment and any easements reserved, dedicated or granted to the Lot Owners and any maintenance and/or easement agreements or record entered into with any governmental entity prior to the date of any conveyance.

ARTICLE V

COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Lot Owner, by accepting title to Lot or, by entering into a land contract for the purchase of same, shall be deemed to covenant and agree to pay to the Association, when due, the Assessments described below and as may be addressed in the Amended and Restated Bylaws, regardless of whether or not such covenant shall be expressed in the Lot Owner's instrument of conveyance or land contract or other transfer of beneficial interest in a Lot (except mortgagees, unless such mortgagee acquires title or comes into possession of a Lot):

(a) Annual Assessments to meet regular Association expenses, which shall include such Assessments necessary for the Association to perform its maintenance, insurance, utility, administrative, or other budgetary obligations and as may be necessary to maintain, replace, repair or improve any easements or property referred to in this Declaration of Covenants, Easements and Restrictions and as addressed in the Amended and Restated Bylaws and Community Documents. Additional Assessments may be levied for any short fall in an Annual Budget Expense or category;

(b) Special Assessments for capital improvements, to be established and collected as may be addressed in the Amended and Restated Bylaws and Community Documents;

(c) Special Assessments against specific Lots and Owners for maintenance or other obligations, to be established and collected as may be addressed in the Amended and Restated Bylaws and Community Documents;

(d) all Other Assessments for taxes, levies, Assessments or other charges lawfully imposed or charged to or paid or incurred by the Association with respect to any Common Areas, Lots, Dwellings or other improvements thereon and the Administration of the Association;

The foregoing Assessments, together with interest and costs of collection (including Court costs and reasonable Attorneys' fees and any other Professional or Contractor's fees) as addressed in the Amended and Restated Bylaws and Community Documents, shall be a lien on the Lot against which they are made and all improvements. Each such Assessments, together with interest, and the costs of collection, in addition to constituting a lien on such Lot and improvements, shall also constitute a joint and several personal obligations of the person or persons whether an individual or entity) who was/were the Owner(s) of the Lot on the date the Assessment was established which survives any termination of interest in the Lot.

Section 2. Purpose of Annual Assessments. The Association shall use the annual Assessments levied under this Article V for the purposes stated herein and as may be addressed in the Amended and Restated Bylaws and Community Documents:

- (a) promoting the recreation, health, safety, and welfare of the residents of the Subdivision;
- (b) improving, landscaping, snow plowing, repairing, replacing and maintaining any Common Areas and Entrance Way and Perimeter Improvements, Landscaping Easement, Storm and Drainage and other Easements and any greenbelts and Lots at the option of the Association (but not the obligation) located in the Subdivision;
- (c) maintaining, operating and repairing any Storm Water Drainage Facilities or area;
- (d) providing Community services and facilities (which may include snow plowing) and repair, replacement, or improvements for the benefit of residents of the Subdivision and operational expenses of the Association;
- (e) planting and maintenance of trees, shrubs and grass and maintaining, beautifying and improving the streets, walkways, rights-of-way, entrance ways and other common improvements within the Subdivision; and
- (f) paying or discharging any utilities, taxes, liens, insurance premiums and mortgage installments relating to any Common Areas and any the foregoing and any repairs, replacements or improvements thereon or if deemed in the best interest of the Association on any Lot in the Subdivision;

All such services or actions pertaining to any Lot shall be at the option but not the obligation of the Association.

- (g) administration of the Subdivision pursuant to the Community Documents including without limitation any interest, fines, late charges, costs and Attorneys and other Professional or Contractor fees incurred in collection and administration and enforcement of the Community Documents.

Section 3. Additional Provisions. Additional provisions with reference to Assessments and other financial and performance obligations and Liens or other remedies in connection therewith may be addressed in the Amended and Restated Bylaws and as provided in any other Community Documents.

ARTICLE VI

BUILDING AND USE RESTRICTIONS

Section 1. Use of Lots.

- (a) All lots shall be used for private single-family residence proposes only, and no building of any kind whatsoever shall be erected, re-erected, moved, or maintained thereon except one private single-family residential dwelling house and permitted appurtenant structures, if any, on each Lot, as hereinafter provided, which dwelling shall not exceed two (2) stories in height. Such dwelling house shall be designed and erected for occupation by a single private household. A private architecturally related attached garage, for the sole use of the Owner or

occupant(s) of the Lot upon which said garage is erected, may also be erected and maintained, provided that said garage is in compliance with the requirements of the Community Documents.

(b) Lease Restrictions. No owner of any Lot shall lease and/or sublet less than the whole of any dwelling on any Lot. Any lease of an entire dwelling shall be subject to all of the terms, covenants, provisions, and requirements hereof, including, without limitation, the provisions of Article VI, Section 1 hereof.

Section 2. Improvement of Lots.

(a) No building or other structure shall be constructed, erected, or maintained on any Lot, nor shall any additions, changes, or alterations to any building or structure be made on any Lot (except interior alterations) unless and until the plans and specifications therefor shall have been submitted to and approved in writing by the Association in the manner set forth in Paragraph 2(d) hereof and as may be addressed in any other Community Documents.

(b) No deck, patio, swimming pool, fence, pool enclosure, or similar other devices and/or structures, whether or not attached to any dwelling, shall be constructed, erected, or maintained on any Lot unless and until the plans and specifications therefor shall have been submitted to and approved in writing by Board of Directors in the manner set forth in Paragraph 2(d) hereof and as may be addressed in the Community Documents.

(c) Fences. No fence or wall of any kind shall be erected or maintained on any Lot, except aluminum or wrought iron fences as approved by the Association, which shall be no larger than 4 feet in height; provided, however permitted fences located within setbacks along public roads shall be no larger than 2 feet in height.

(d) Any and all construction of the buildings, structures, and other items set forth in Paragraphs 2(a) and 2(b) hereof (collectively, the "Improvements") shall be diligently completed in accordance with the plans and specifications which are ultimately approved by the Association and as may be required by Macomb Township. Copies of all plans and specifications, as finally approved, shall be delivered to the Association for its permanent file.

(e) Any and all plans and specifications required pursuant to Paragraphs 2(a) and 2(b) hereof, or otherwise as provided in this Declaration, shall as may be required by the Board of Directors be prepared by a competent architect, and shall show the nature, kind, shape, height, materials, color scheme, estimated time periods relating to commencement and completion of construction, and location of the Improvements to be constructed upon the subject Lot. The Board of Directors shall have the right to refuse to approve any plans or specifications which it determines, in its sole discretion, would not be suitable or desirable for aesthetic or other reasons or for no reason; and in so passing upon plans and specifications, Board of Directors shall have the right to take into consideration the suitability of the proposed Improvements on the Lot upon which they are proposed to be erected, and the harmony as planned in view of the appearance from adjacent or neighboring properties. The Board of Directors shall also have the right to specify or address the time, method and materials to be used in the construction of any Improvements on the Lots, and may require suitable screening of Improvements with adequate shrubs, landscape materials, and other modifications. It is understood and agreed that the purpose of this Paragraph 2(d) is to cause the Subdivision to develop into a beautiful, harmonious, private, residential area, and if any disagreement arises with respect to the provisions or applications of this Paragraph 2(d), the decision of the Board of Directors shall control and be conclusive upon all parties.

(f) Provided that all requirements as set forth in the Declaration and the Community Documents are complied with, and if the Association fails to approve, conditionally approve, or disapprove any plans and specifications required to be submitted to the Association pursuant to this Declaration and the Community Documents within thirty (30) days from the date on which the same have been received by the Association, then such approval will not be required as a condition precedent to construction of the Improvements set forth therein, provided that the plans and specifications (and all construction based upon such plans and specifications) (i) conform to the restrictions set forth in this Declaration and the Community Documents and all applicable statutes, laws, ordinances, and regulations, including zoning laws, and (ii) are otherwise in harmony with the existing Improvements constructed on the Lots as determined by the Board of Directors.

(g) No Lot may be divided, subdivided, or otherwise split or combined with any other Lot except with the prior written consent of the Association, and if so approved by the Association only in compliance with the requirements of (i) the Michigan Land Division Act of 1967 (M.C.L.A. 560.101, et seq), as the same may hereafter be amended, or any replacement or successor statute thereto, and (ii) all applicable ordinances of the Township and all other governmental authority(ies) having jurisdiction.

Section 3. Size and Character of Buildings.

(a) No dwelling shall be permitted on any Lot unless the living area thereof shall be not less than one thousand four hundred (1,400) square feet in the case of a one (1) story dwelling, and not less than one thousand five hundred (1,500) square feet in the case of a one and one-half story dwelling, and not less than one thousand six hundred (1,600) square feet in the case of a two story dwelling. All computations of square footage shall include the actual area within the outer surfaces of the exterior walls of the dwelling and shall be determined exclusive of basements (whether or not of the "walk-out" variety), garages, porches, terraces, breezeways, and other unenclosed or unheated areas. The combination of any permitted structures, shall not exceed 30% of the total area of the lot.

(b) All dwellings constructed on the Lots shall include a private garage which shall be directly attached and architecturally related to the Dwelling. Every garage shall provide space for at least two (2) vehicles. Carports are specifically prohibited in the Subdivision. Driveways shall be concrete or brick pavers. All garages are to be used for vehicles and not storage (so as to preclude parking of vehicles) or occupancy purposes.

(c) No old or existing buildings may be moved onto any Lot, and no used materials (except reclaimed brick) may be used in the construction of any Improvements in the Subdivision.

(d) All dwellings shall have finished exteriors of brick, stone, Exterior Insulating Finishing system (hereinafter called "EIFS"), wood (which may be covered with vinyl) or a combination thereof and at least 70% of the exterior of the front of the first floor shall be brick, stone or EIFS. The exterior remaining sides and rear of all residences shall be brick or stone between the top of grade and the bottom of the first-floor level.

(e) No used materials (except reclaimed bricks) may be used in the construction of any dwelling and no dwelling shall have a flat roof or roll type roof.

(f) Prefabricated, factory-built and/or modular homes shall only be permitted if

compliant with the Community Documents and approval by the Board of Directors to be located on any Lot.

(g) All exterior paints, stains and material colors must be shown as a part of the plans submitted for approval and which must be approved in writing by the Board of Directors; samples thereof shall be furnished to the Board of Directors.

Section 4. Minimum setback and Yard Requirements. No building or structure shall be erected on any Lot nearer to any front, side, or rear Lot line than is allowed by applicable zoning ordinances, as modified by any variance already obtained by Declarant/Developer prior to the date hereof with respect to the Subdivision, or otherwise provided herein.

Section 5. Easements.

(a) Easements are reserved as shown on the Plat of the Subdivision. The use of all or a part of such easements may at any time or times hereafter be granted or assigned by the Board of Directors, to any person, firm, corporation, governmental unit, or agency which furnishes services or utilities for use in the Subdivision.

(b) Private easements for public utilities, green- belts, and entrance signs have been granted and reserved on the Plat of the Subdivision.

(c) No structure(s) of any kind or nature whatsoever shall be constructed, erected, maintained, or placed within any drainage, sedimentation, or storm water detention area, if any.

(d) No structure(s) of any kind or nature whatsoever shall be constructed, erected, maintained, or placed over or on any utility easement(s); provided, however, that after the utilities have been installed, the areas over such utility easement(s) may be seeded or sodded. All other planting or Lot line Improvements of any type over or on any easements shall be allowed only so long as they do not interfere with, obstruct, hinder, or impair the drainage plan of, or utilities in, the Subdivision, and so long as access be granted, without charge or liability for damages, for the maintenance of the utilities, underground drainage lines, underground facilities, and surface drainage swales, and/or for the installation of additional facilities.

(e) No fences, pools or other permanent structures shall be allowed within the Miller Drain easement.

(f) **Reservation of Easements.** No structure, landscaping or other materials shall be placed or permitted to remain within any easements or Rights-of-Way which may damage or interfere with the installation or maintenance of utilities or which may change, obstruct or retard the flow or direction of water in, on or through any drainage channels, if any, in such easements, nor shall any change be made by any Lot Owner in the finished grade of any Lot without the prior written consent of the Board of Directors and any applicable governmental entity, Statute or Regulation.

(g) **Association Easements.** The Association, and its agents and representatives, shall have a perpetual easement for reasonable access to the Subdivision and any Common Areas, at all reasonable times for purposes of maintenance, repair, operation and improvement thereof. The Association shall have the right but not the obligation to perform any of the foregoing on any Lot.

The Association shall have the right to reserve, dedicate or grant public or private easements for such purposes and subject to such conditions and purposes set forth in the Community Documents and approved by the Township of Macomb; provided such right is exercised in accordance with all applicable laws, rules and regulation, including any legal proceedings, if necessary.

(h) **Flood Plain Easement.** There exists and this Community is subject to, a Declaration of Restrictions for Flood Plain Requirements dated August 22, 2001 and recorded on August 30, 2001 at Liber 10687, Pages 553 – 559, Macomb County Records (attached as Exhibit C to this Amended and Restated Declaration of Covenant, Easements and Restrictions)

Section 6. Landscaping. With the consent and approval of any governmental agencies having jurisdiction over the streets and rights-of-way within the Subdivision, and subject to the interest of the public in such streets and rights-of-way within the Subdivision, the Association shall be responsible for the maintenance, repair and upkeep of all Entrance Way, Landscaping, Common Mailbox areas and the Carleton Place Common area and all Irrigation Improvements located in such Entranceway and Perimeter Improvements.

The Association shall have the right to establish Rules and Regulations as the Board of Directors may deem necessary or desirable for the maintenance, upkeep and beautification of all such improvements in order to insure an aesthetically pleasing appearance and economic considerations for the benefit of all Lot Owners within the Subdivision.

Section 7. Soil Removal. Soil removal from Lots shall not be permitted, except as required for construction purposes and as permitted by the Association. In addition, all construction shall be subject to the requirements of the Michigan Soil Erosion and Sedimentation Control Act, as amended, and all other applicable statutes, ordinances, rules and regulations of all governmental agencies having jurisdiction over such activities.

Section 8. Temporary/Permanent Structures. Temporary trailers, house trailers, shacks, barns, or any other temporary building or permanent structure of any description whatsoever, are expressly prohibited within the Subdivision without prior written approval of the Board of Directors. And no temporary residence or occupancy shall be permitted in an unfinished residential building, unless, the occupant has obtained a temporary certificate of occupancy from the Township of Macomb. However, the erection of a temporary storage building for materials and supplies to be used in the construction of a dwelling and which shall be removed from the premises upon completion of the building may be permitted by the Board of Directors in its absolute and sole discretion. This may be addressed in the Amended and Restated Bylaws and the Rules and Regulations or Resolutions.

a. **Exceptions:**

- i. A single, small (less than 50 ft) shed used for the purpose of storing equipment used for the maintenance of in-ground swimming pools.
- ii. An open (no closed sides) outdoor structure forming a shaded walkway, passageway, or sitting area consisting of vertical posts that support an open roof of lateral crossbeams. A pergola may be free standing or attached to the primary residence.
- iii. An open (no closed sides) outdoor structure forming a shaded sitting area consisting of vertical posts that support a solid roof. A pavilion may be free

standing or attached to the primary residence.

Section 9. Underground Wiring. No permanent lines or wires for communication or other transmission of electrical or power (except transmission lines located on existing or proposed easements) shall be constructed, placed or permitted to be placed anywhere above ground on a Lot other than within buildings or structures.

Section 10. General Conditions.

(a) The grade, slope, and/or contour of any Lot shall not be changed without the prior written consent of the Association, the Township, and all other governmental authorities having jurisdiction. This restriction is intended to prevent interference with the master drainage plan for the Subdivision.

(b) No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done on or around any Lot which may become an annoyance or nuisance in the Community or to the Lot Owners or Residents of any Lots in the Subdivision.

ARTICLE VII

ARCHITECTURAL CONTROLS

Section 1. Architectural Controls. The purpose of architectural controls is to promote an attractive, harmonious residential development having continuing appeal and preserving economic and aesthetic values and consideration. Accordingly, unless and until the construction plans and specification are submitted to, and approved in writing by, the Association's Board of Directors in accordance with the provisions of Section 2 below,

(a) It is understood and agreed that the purpose of architectural controls is to promote an attractive, harmonious residential development having continuing economic and aesthetic appeal.

(b) Until the construction plans and specifications are submitted to and approved in writing by the Board of Directors (i) no construction, improvement, building, fence, wall, swimming pool, or other structure shall be commenced, installed, erected or maintained, nor (ii) shall any addition, change or alteration therein be made except for interior alterations, nor (iii) shall exterior color or finish changes be made to dwellings improvements or structures.

(c) Construction plans and specifications shall show the nature, kind, shape, height, materials, color scheme (including samples or exterior building material upon request) location on Lot, approximate cost of such building or other structure, including swimming pools, any other structure and the grading and landscaping plans of the Lot to be built upon.

(d) The Board of Directors shall have the right to refuse or to approve any such construction plans or specifications, grading plan, landscape plan, swimming pool plan or dog/animal run which are not suitable or desirable, in the sole opinion of Board of Directors, for aesthetic or other reasons; and in so passing upon such construction plans and specifications, grading plan or landscape plan.

(e) The Board of Directors shall have the right to take into consideration the suitability of the proposed building or other structure with the surroundings, and the effect of the building or other structure on the outlook from adjacent or neighboring properties and the Community.

(f) In no instance shall a building of a design exactly the same as any other in CARLETON PLACE SUBDIVISION be permitted, except as permitted by the Board of Directors AND AS MAY BE PROVIDED IN THE Community Documents.

Section 2. Submission of Plans and Plan Approval.

(a) **Submittal of Plans and Specifications.** All construction plans, specifications and related materials pertaining to construction or alteration of a building, fence, wall or other structures shall be filed by the applicant for approval with the Association's Board of Directors. The construction plans, specifications and related materials shall show the nature, kind, shape, height, materials (including samples of exterior building materials upon request), approximate cost of the building, fence, wall or other structure, proposed drainage of surface water, and the location and grade of all buildings, structures, improvements, utilities and parking areas.

(b) The Board of Directors shall have sole authority to review and recommend, approve or disapprove the plans, specifications and related materials or any part thereof to the Board of Directors.

(c) The Board of Directors shall have the right to request materials, submissions and documentation refuse to approve the proposed plans, specifications and related materials, or grading plans, or portions thereof, which are not suitable or desirable in the sole discretion of the Board of Directors for aesthetic or other reasons. In its review of the plans, specifications, and related materials, the Board of Directors may consider compatibility of the proposed building, fence, wall or other structures with the surroundings area, the view from adjacent or neighboring properties, and the Community. Natural landscaping and trees shall be left in their natural state to the extent practical.

(b) **Decision.** (i) A report in writing setting forth the decision of the Board of Directors, and the reasons therefor, shall be furnished to the Lot Owner by the Board of Directors. The Board of Directors shall consider, evaluate and render a decision to the Proposed Plans. (iii) the Board of Directors shall notify the Lot Owner in writing of their decision and reasons therefore within 30 days or review and decision.

(c) **No Liability.** Neither the Association, Board of Directors, nor the individual Members, shall incur any liability whatsoever for approving or failing or refusing to approve all or any part of any submitted plans, specifications and related materials.

(d) The Amended and Restated Bylaws and Rules and Regulations and Community Documents may provide additional terms and conditions.

ARTICLE VIII

ENFORCEMENT AND REMEDIES

Section 1. Cumulative Rights & Remedies. All rights and remedies granted to the Association or any Lot Owner under any terms of the Governing Documents, in law or equity shall be cumulative and not exclusive. The exercise of any one or more of these rights or remedies by the Association or by an Lot Owner shall not in any way constitute an election of remedies, nor shall it preclude the party from exercising any other rights or remedies which may be available to such party under the Governing Documents, at law, or in equity.

Section 2. The Amended and Restated Bylaws and Rules and Regulations and Community Documents may provide additional terms and conditions.

Section 3. General. The Association, acting through its Board, shall be permitted to assess monetary fines or other sanctions against any Lot Owner in the event that the Lot Owner or his tenants, guests, family, or invitees shall violate any of the provisions of this Amended and Restated Declaration of Covenants, Easements and Restrictions, the Amended and Restated Bylaws and other Community Documents. Such Lot Owner shall be deemed responsible for such violations whether they occur as a result of his personal inactions or the actions of his family, guests, tenants, or invitees or other person or entity holding or claiming an interest or right of entry to the Community by reason of such Lot Owner.

Section 4. Enforcement

(a) Enforcement. The Association, or any Lot Owner, shall have the right to enforce by any proceeding at law or in equity, a suit for damages and/or including injunctive relief, as to all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Amended and Restated Declaration of Covenants, Easements and Restrictions and the Community Documents. Failure by the Association or by an Lot Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Provisions for enforcement and remedies may be addressed in the Amended and Restated Bylaws and Community Documents.

(b) In addition to any other remedies available to the Association, the Association may enforce collection of delinquent Assessments or other financial or compliance obligations by a suit at law or Equity, or for a money judgment or by foreclosure of the lien that secures payment of Assessments, or both, in accordance with this Amended and Restated Declaration of Covenants, Easements, and Restrictions. A Lot Owner may not assert in an answer or set-off to a complaint brought by the Association for nonpayment of Assessments the fact that the Association or its agents have not provided services or management to the Lot Owner.

(c) In the event of default by any Lot Owner in the payment of any installment of the Annual Assessment levied against the Owner's Lot, any portion of any Annual Additional or Special Assessment or other Assessment levied against their Lot, or any other obligation of an Lot Owner that, according to this Amended and Restated Declaration of Covenants, Easements and Restrictions, may be assessed to and collected from the responsible Lot Owner, the Association shall have the right to declare all unpaid installments of any annual Assessment for the pertinent fiscal year (and for any future fiscal year in which said delinquency continues) and any multi-year Assessment, and/or all unpaid portions or installments of any Additional or Special or Other Assessment, if applicable.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Insurance Proceeds. All proceeds of any insurance maintained with respect to any assets of the Association, and the Common Areas (if the Common Areas have been conveyed to the Association), and all proceeds of any condemnation proceedings or sales in lieu of condemnation relating to the assets of the Association or any Common Areas shall be paid to the Association and shall be the property of the Association and not of its Members or any other persons or entities.

Section 2. Preservation. If a Court of competent jurisdiction shall hold invalid or unenforceable any part of any Covenant or provision contained in this Amended and Restated

Declaration of Covenants, Easements and Restrictions, such holding shall not impair, invalidate or otherwise affect the remainder of this Amended and Restated Declaration of Covenants, Easements and Restrictions which shall remain in full force and effect; and

Section 3. Amendment. The Covenants and Restrictions of this Amended and Restated Declaration of Covenants, Easements and Restrictions shall run with and bind the land, for a term of ten [10] years from the date this Amended and Restated Declaration is recorded, after which time they shall be automatically extended for successive periods of ten [10] years. Any amendment must be recorded with the Macomb County Register of Deeds. Unless within the first 10 years or any successive ten years period, at least 70% Vote to approve an amendment which will take effect upon recordation. All other provisions except as replaced herein or any amendment shall remain unchanged for the stated period.

(a) Any and all actions or references to the Association shall be exercised by the Board of Directors of the CARLETON PLACE HOMEOWNERS ASSOCIATION unless otherwise specifically reserved to the Members.

Dated: _____, 2021

Carleton Place Homeowners Association, a Michigan nonprofit corporation

By: _____

Its: President

STATE OF MICHIGAN)
) ss.
COUNTY OF MACOMB)

The foregoing Amended and Restated Declaration of Covenants, Easements and Restrictions of Carleton Place Subdivision was acknowledged before me, a notary public on ____ day of _____, 2021, by _____, known to me to be the President of the Carleton Place Homeowners Association, a Michigan nonprofit corporation, and that she has executed this Amended and Restated Declaration of Restrictions of Carleton Place Subdivision as his/her own free act and deed on behalf of the Corporation.

Notary Public

County, Michigan
My commission expires: _____
Acting in the County of _____

PREPARED BY and WHEN RECORDED RETURN TO:

Richard L. Wagner, Jr.
Zelmanski, Danner, & Fioritto, PLLC
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Mt. Clemens, MI 48043
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