

*These documents have been prepared as a guide for owners on shared driveways within the township, and each party is advised to seek the advice of an attorney of his or her choice respecting the rights and obligations set forth herein and in the accompanying documents. These documents may or may not be appropriate for the particular shared driveway involved. Each document is a form of document which would be generally approved by the Township attorney under the provisions of the Dexter Township Private Road Ordinance in order to obtain access permits or approval of a shared driveway.*

*The marital status of men must be stated in the acknowledgement and on the schedule of names and addresses - such as "a single man", "husband and wife." The marital status of women need not be stated.*

*The attached list of Owners' names must state the full legal name of each individual as they sign their names, their addresses with zip codes, and the marital status of the men.*

*The attached list of parcels must be in the form of the complete legal description and include the correct tax identification of each parcel from the current assessment roll.*

*The person who drafts the document must be named as the preparer. Do not name the Dexter Township officer, attorney or agent. This person will usually be the one to respond to questions regarding the execution of the document and other details that the Register of Deeds may have.*

*Please note that these documents are not a substitute for site plan review and other zoning requirements.*

*A limited liability company can be substituted for a corporation. Any other legal entity requires additional care in management and formation.*

*Every owner should consult their own counsel due the continued changes of law regarding recordings, title insurance, liability insurance and liability issues.*

*All documents shall meet the recording requirements of the Washtenaw County Register of Deeds.*

*If applicants sign with a power of attorney, the whole power of attorney with original signatures must be in recordable form and attached, or if recorded referred to by liber and page*

PRIVATE DRIVE MAINTENANCE AND IMPROVEMENT AGREEMENT

**THIS AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_\_, 200\_, by and between the undersigned, as set forth on the attached schedule, hereinafter referred to collectively as “Owners” or individually as “Owner”;

WHEREAS, the parties are the owners of the following described real estate which is situated in the Township of Dexter, Washtenaw County, Michigan, and which is more specifically described on the attachment(s) hereto; and

WHEREAS, the parties hereto desire by recording this Agreement in the Office of the Register of Deeds for Washtenaw County to establish an easement across their parcels for purposes of ingress and egress and the installation of utilities;

NOW THEREFORE, the owners, do upon the recording of this document, agree to hold, improve, maintain, and repair, or in any other manner control, subject to the covenants, conditions, restrictions, uses, limitations, and affirmative obligations set forth herein, the driveways and easements, all of which shall be deemed to run with the land and shall be a burden and a benefit to the owners, and costs and levies due hereunder shall be liens against the title to each parcel. Any persons acquiring or owning an interest in said real estate parcels, their grantees, successors, heirs, personal representatives, and assigns shall be subject to and bounded by this Agreement. In furtherance of this Agreement, it is agreed as follows:

**FIRST.** The cost of maintenance, repair, operation, improvement, or replacement of the roadways and utilities, described within, shall be borne by the owner of each parcel, that is, an equal share for each parcel of real estate which has the benefit of the driveways and easements herein described;

**SECOND.** All costs in satisfaction of any liability or responsibility arising herein, caused by, or in connection with the driveway and easements or the administration of the roadway and drainage easements are expenses of administration.

**THIRD.** Assessment of costs incurred shall be determined in accordance with the following provisions:

1. By majority vote of the owners of the parcel, being one vote per parcel, an annual budget in advance for each fiscal year shall be established, and such budget shall project all expenses for the forth coming year which may be

required for the proper operation, maintenance, and management of the driveways and easements, including a reasonable allowance for contingencies and reserves. Should a majority not adopt a budget, then \_\_\_\_\_ and \_\_\_\_\_, and their survivor, shall in their sole discretion have the authority to determine the budget and the general assessments or levy such assessments as they shall deem necessary.

2. At any time, by majority vote of the owners of the parcel, being one vote per parcel, in addition to those required in paragraph 1 above, assessments may be made for additional costs incurred or to collect assessments which have been levied by Dexter Township or other municipality in a manner prescribed by law. Should a majority not adopt a budget, \_\_\_\_\_ and \_\_\_\_\_ and their survivor, shall in their sole discretion have the authority to determine additional assessments and levy such assessments as they shall deem necessary.
3. No owner may exempt a parcel from liability for contributions towards the expenses by waiver of the use or enjoyment of the roadway or easement or by abandonment of a parcel.

**FOURTH.** In addition to all other remedies available to the owners, the owners may enforce collection of delinquent assessments by suit at law for a money judgment or by foreclosure of a lien that secures payment of the assessment. Each owner, and every other person who shall from time to time have an interest in the parcel, shall be deemed to have granted the unqualified right to elect to foreclose such lien either by judicial action or by advertisement. Each owner and party to this Agreement does hereby grant a lien to collect assessments. The provisions of Michigan law pertaining to foreclosure or mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herewith by reference for the purpose of establishing the alternative procedures to be followed in lien foreclosure action and the rights and obligations of the parties to such action. Further, each owner and every other person who from time to time has an interest in a parcel shall be deemed to have authorized and empowered the sale or cause to be sold the parcel with respect to which the assessment is or may become delinquent, and to receive hold and distribute the proceeds of such sale in accordance with the priorities established by Michigan law. Each owner of a parcel acknowledges that at the time of acquiring title to such parcel, the owners was notified of the provisions of this section and voluntarily, intelligently and knowingly waived notice of any proceedings brought to foreclose by advertisement the lien for non-payment of assessments and a hearing on the same prior to the sale of the parcel. Notwithstanding the foregoing, neither a judicial foreclosure action nor a suit at law for money judgment shall be commenced, nor shall any suite for foreclosure by advertisement be published, until the expiration of ten (10) days after mailing,

by ordinary mail addressed to the delinquent owner, at his or their last known address, the written notice required herein, or a written notice that one or more installments of the annual assessment levied against the parcel is or has become delinquent and that any of the remedies may be invoked if the default is not cured within ten (10days) after the date of mailing. Such written notice shall be accompanied by a written affidavit that sets forth (1) the deponent's capacity to make the affidavit, (2) the authority for the lien, (3) the amount outstanding, (4) the legal description of the parcel, and (5) the name of the owner according to the files and records of the Township of Dexter. Such affidavit shall be recorded in the office of the Register of Deeds for Washtenaw County prior to commencement of any foreclosure proceedings, but it need not have been recorded as of the date of mailing as aforesaid. In the event of foreclosure of the lien by advertisement, the owner shall be notified that the owner may request a judicial hearing by bringing suit against the owners who authorized the lien. The expenses incurred in collecting unpaid assessments, including interest, costs, actual attorney fees (not limited to statutory fees), and advances or other liens paid to protect the lien, shall be chargeable to the owner in default and shall be secured by the lien on said parcel. An owner in default shall not be entitled to a vote as a member and shall not be taken into consideration in determining the budget or assessments, so long as default continues. All of these remedies shall be cumulative and shall not preclude such other remedies as may be available at law or in equity.

Upon sale or conveyance of a parcel, all unpaid assessments against the parcel shall be paid out of the sale price or by the purchaser in preference over other assessments or charges of whatever nature, except amounts to the state, the county, or any subdivision for taxes and special assessments, payments due under a first mortgage or land contract vendor's lien having priority, and a purchaser is entitled to a written statement setting forth the amount of the unpaid assessment against the seller or grantor, and the purchaser or grantee is not liable for the parcel conveyed or granted subject to a lien for any unpaid assessments against the seller or grantor in excess of the amount set forth in the written statement.

**FIFTH.** Disputes, claims or grievances arising out of or relating to the interpretation or application of this document or the administration, if any, all disputes among the owners or between the owners shall, upon the election and written consent of the parties to such dispute, claim or grievance, and written notice, be submitted to arbitration, and the parties thereto shall accept the arbitrators' decision as final and binding, provided, that no question affecting the title or claim of title to a fee simple interest or life estate in the real estate is involved.

**SIXTH.** This agreement shall not be construed as a consent by an owner to any public dedication of the easements, driveways, or rights-of-way granted herein. The driveways and easements are for the use of the owners of the

parcels, their family, friends, invitees, and emergency, fire, police, medical, service providers, contractors, and suppliers to the individual parcels.

**SEVENTH.** Time is of the essence of this Agreement.

EIGHTH. In the event that any of the terms, provisions, or covenants of this document are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holdings shall not affect, alter, modify or impair in any other manner whatsoever the other terms, provisions and covenants of this documents.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 200.

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF MICHIGAN )  
COUNTY OF WASHTENAW)

On \_\_\_\_\_, 200\_\_, before me a Notary Public appeared

\_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

who acknowledged this Declaration to be their free act and deed.

\_\_\_\_\_  
, Notary Public

Washtenaw County, Michigan  
Acting in Washtenaw County  
My commission expires: \_\_\_\_\_

Prepared by:

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