

**AMENDED RESTRICTION AGREEMENT FOR
CRESTWOOD MANOR SUBDIVISION I
CRESTWOOD MANOR SUBDIVISION II and
CRESTWOOD MANOR SUBDIVISION III**

This Amended Restriction Agreement for Crestwood Manor Subdivision I, Crestwood Manor Subdivision II, and Crestwood Manor Subdivision III, (“Agreement”) is made and executed this _____ day of _____, 2021, by the Crestwood Homeowners Association, Inc., a Michigan non-profit domestic corporation (“Association”), represented herein by _____, the President of the Association, who is fully empowered and qualified to act on behalf of the Association.

WHEREAS, the Association hereby declares that the Restriction Agreement for Plat of Crestwood Manor, recorded on March 20, 1972, in Liber 153, page 261-264, Otsego County Register of Deeds, and Agreement to Modify Restriction Agreement for Plat of Crestwood Manor, recorded on April 29, 1991, in Liber 476, page 02-08, Otsego County Register of Deeds, are hereby superseded by the recording of this Agreement to the extent that any article in the Restriction Agreement for Plat of Crestwood Manor or Agreement to Modify Restriction Agreement for Plat of Crestwood Manor is in conflict with any provision of this Agreement. Accordingly, the real property described below is and will be held, transferred, sold, conveyed, occupied, encumbered, leased, rented, improved, or in any other manner utilized, subject to the covenants, conditions, restrictions, uses, limitations, affirmative obligations, and easements set forth herein, all of which will be deemed to run with such real property and which will be a burden and a benefit to the Association, its successors and assigns, and any persons acquiring or owning an interest in such real property, their grantees, successors, heirs, executors, administrators and assigns.

WHEREAS, the Association desires to provide for the preservation and enhancement of property values and amenities in the Subdivision and to this end desires to subject the Subdivisions to the covenants, restrictions, and easements set forth in this Agreement, each and all of which is and are for the benefit of the Subdivision and each owner of a lot in the Subdivisions.

ARTICLE I
PROPERTY SUBJECT TO THIS AGREEMENT

1.1 **Legal Description.** The property that is subject to this Agreement is legally described as follows (“Subdivision”):

Plat of Crest Wood Manor, a subdivision of part of section 15, Town 30 North, Range 3 West, Bagley Township, Otsego County, Michigan, according to the plat thereof as recorded in Liber 3 of Plats, Pages 176 through 179, Otsego County Records.

1.2 **Covenants Running with the Land.** All owners, by acceptance of a deed to or other conveyance of their lots, will be deemed to have automatically consented to the terms, rights and obligations set forth in this Agreement, the Articles of Incorporation, the Bylaws and any Rules

and Regulations of the Association. The terms contained herein will be considered restrictions running with the land comprising the Subdivision.

ARTICLE II **RESTRICTIONS**

2.1 **Uses Permitted.** All land which is subject to this Agreement shall be limited to single family residential use. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) single family dwelling with attached garage. One (1) detached accessory building may be constructed on a cement pad located on the rear or side of the main building provided that no roll off style buildings are permitted. This limitation shall not apply to swimming pools, tennis courts, badminton courts, retaining walls, and other such similar construction.

2.2 **Building Restrictions.**

(a) No dwelling shall be erected, altered or permitted on any lot in the Subdivision unless it has a living area of at least 1100 square feet on the first floor. Living area, as used herein, shall include actual area within the outer surface of the outside walls, except any garage, basement, unheated porch, or breezeway or entrance way.

(b) The detached accessory building shall be one story in height and shall not exceed a total floor area of 1200 square feet. The accessory building shall be constructed and finished in the same manner and with the same materials as the dwelling with a peak no higher than the dwelling.

(c) No structure shall be erected on a lot in the Subdivision the front wall of which shall be nearer than thirty (30) feet from the front property line of said lot; and no such structure shall be erected the side wall of which (including open or enclosed porches and garages) shall be less than fifteen (15) feet from the side property line of said lot.

(d) All improvements located within a lot shall be of exterior design, materials, workmanship and quality as to be harmonious with other homes and improvements in the Subdivision. No log construction, unpainted sand brick, unpainted lime brick, unpainted concrete block, unpainted cinder brick, or any rolled material or any other tar or felt composition material shall be used in the finished exterior of any building.

(e) No mobile home, double wide, or modular home shall be placed, stored, occupied, constructed or installed on any lot in the Subdivision. This restriction shall apply to so-called "manufactured" homes. However, homes built in accordance with the National Building Code published by the Building Officials and Code Administrators International (BOCA) would be permitted.

2.3 **General Restrictions.**

(a) No structure of a temporary character erected at any time on any lot in the Subdivisions shall be used as living quarters. No temporary occupancy will be permitted in unfinished residential buildings.

(b) No abandoned, unlicensed, or inoperable vehicles of any kind, and no unlicensed house trailers, boat trailers, boats, camping vehicles, snowmobiles, snowmobile trailers, recreational vehicles, automobiles, or motorcycles will be permitted to be parked or stored on the driveway, or in the front, side or rear yard of any house or on any vacant lot in the Subdivisions, unless parked or stored within a garage. The following may be parked or neatly stored outdoors provided they are legally licensed to the lot owner or invitee: boat with trailer, camper or camping trailer, motorcycle or ATV trailer combination, recreational vehicle.

(c) No trash, garbage or other waste shall be kept on any lot EXCEPT in garbage containers. No burning of trash or garbage is allowed.

(d) No parts, junk, or components of equipment or any other item or thing shall be stored upon any lot except within a garage or shed.

(e) No farm animals, livestock or wild animals will be kept, bred or harbored on any lot, nor will any animals be kept or bred for commercial purposes. Domestic animals commonly deemed to be household pets may be kept by the lot owner and members of the owner's household so long as such pets will have such care so as not to be objectionable or offensive to others due to noise, odor or unsanitary condition.

(f) No signs or other advertising devices shall be permitted on any lot in the Subdivisions, other than one (1) sign not greater than four (4) square feet on each building face indicating the owner's name and address. Not more than one "For Sale" sign is permitted per lot, PROVIDED it does not exceed nine (9) square feet in size. Not more than one (1) political sign shall be allowed per lot thirty (30) days prior to and one (1) day after an election. All additional signs must be approved by the Association Board of Directors.

2.4 **Construction Process.**

During the period of construction occurring on a lot, the following regulations shall be followed:

(a) Garages, basements, and unfinished homes shall not be used as living quarters.

(b) Large vehicles, necessary for construction, shall be permitted on a lot during the construction process. Otherwise, dump trucks, tractors, commercial trucks, tractors and trailers, flatbed trailers, construction equipment, and other machinery shall not be permitted on any lot in the Subdivisions.

(c) All construction must be completed within one year (12 months) from the date construction of the residential dwelling commences. All construction materials shall be removed and the lot shall be in a neat and clean condition within thirty (30) days, weather permitting, after the dwelling is ready for occupancy.

(d) Landscaping shall be completed within twelve (12) months after occupancy. At a minimum, this shall include grass seeding or sodding.

2.5 Leasing and Rental. Lot owners in the Subdivisions may rent their homes at any time for any term of occupancy not less than one year (365 days). No daily or weekly rentals shall be permitted. Owners who rent their homes must advise the Association of intent to lease and provide tenants with copies of this Agreement. Tenant shall comply with all conditions of the Restriction Agreement and all leases and rental agreements shall so state. If the Association determines that the tenant has failed to comply with the conditions of the Restriction Agreement, the Association shall take the following action:

(a) The Association shall notify the lot owner by certified mail advising of the alleged violation by the tenant.

(b) The lot owner shall have fifteen (15) days (or such additional time as may be granted by the Association if the lot owner is diligently proceeding to cure) after receipt of such notice to investigate and correct the alleged violation by the tenant or advise the Association that a violation has not occurred.

(c) If after fifteen (15) days the Association believes that the alleged breach is not cured or may be repeated, it may institute on its behalf or derivatively by the owners on behalf of the Association, an action against the tenant or non-owner occupant for breach of the conditions of this Agreement. The Association may pursue relief in any Court having jurisdiction. The Association may hold both the tenant and the owner liable for any damages caused by the owner or tenant in connection with the lot. The owner will be responsible for reimbursing the Association for all costs incurred in obtaining judicial enforcement of its rights, including reasonable attorney's fees.

2.6 Yard Maintenance. The owner of each lot shall keep and maintain the lot in a neat and attractive condition. Such maintenance shall include regular mowing, edging of turf areas, weeding of plant beds, keeping tall grass, shrubbery or hedges mowed and trimmed to reasonable limits. Further, all lot owners shall maintain their lots and any improvements thereon at all times in a neat, attractive and presentable manner so as not to detract from the overall appearance of the Subdivisions or the surrounding property. All yards must be maintained in a professional manner. The maintenance shall occur on a regular basis and in such frequency as is sufficient to meet the conditions of the growing season.

3.7 Recreational Equipment. Recreational Equipment is defined to include swing sets, sliding boards, sandboxes, trampolines, and similar items. Recreational Equipment shall be placed in the rear yard and should be of a size appropriate for the backyard. All Recreational Equipment shall be maintained in a safe, operational, clean and presentable manner so as not to detract from the overall appearance of the Subdivisions or the surrounding property.

3.8 Garage Sales. No more than two (2) garage sales per year shall be permitted upon any lot in the Subdivisions. Each garage sale shall be no longer than three (3) consecutive days. Signs

advertising the garage sale shall be allowed no earlier than three (3) days prior to the garage sale and no later than one (1) day after the sale.

2.9 **Nuisances.** No unlawful or offensive activity shall be carried on upon any lot in the Subdivision, nor shall anything be done which may be or become an annoyance or a nuisance to the lot owners in the Subdivisions. No unreasonably noisy activity shall be carried upon any lot. There shall not be maintained any animals, device, thing, or activity of any sort whose existence is in any way noxious, noisy, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the reasonable enjoyment of other lots in the Subdivisions. The Association Board of Directors shall be the final arbiter of whether a particular animal, device, thing, or activity is in violation of the foregoing restrictions.

ARTICLE III **ENFORCEMENT**

3.1 **Compliance by Owners.** Every lot owner and every owner's residents, agents, occupants, guests and invitees will comply with the restrictions and covenants set forth herein.

3.2 **Remedies for Default.** Failure of a lot owner to comply with this Agreement will be grounds for relief, which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any other action.

3.3 **Costs Recoverable from Owner.** The failure of a lot owner to comply with this Agreement will entitle the Association to recover from such owner actual attorney's fees and costs, including pre-litigation attorney's fees and costs, incurred in obtaining their compliance with this Agreement. In addition, in any proceeding arising because of an alleged default by any owner, or in cases where the Association must defend an action brought by any owner(s) and regardless if the claim is original or brought as a defense, a counterclaim, cross claim or otherwise, the Association, if successful, will be entitled to recover from such owner actual attorney's fees and costs, including pre-litigation attorney's fees and costs, incurred in defense of any claim or obtaining compliance or relief, but in no event will an owner be entitled to recover such attorney's fees or costs against the Association. Any costs, attorneys' fees, fines, damages, or other amounts chargeable to an owner under this Agreement may be collected by assessing such amount(s) against such owner's lot, including such amount as part of a lien against the lot, and enforcing the lien through foreclosure.

3.4 **Failure to Enforce Rights.** The failure of the Association or of any owner to enforce any right, provision, covenant or condition that may be granted by this Agreement will not constitute a waiver of the right of the Association or of any such owner to enforce such right, provisions, covenant or condition in the future.

3.5 **Cumulative Rights.** All rights, remedies and privileges granted to the Association or any lot owner pursuant to any terms, provisions, covenants or conditions of this Agreement will be deemed to be cumulative and the exercise of any one or more will not be deemed to constitute an election of remedies, nor will it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in

equity. The covenants, reservations, easements and restrictions contained herein will be binding upon the heirs, devisees, legatees, executors, administrators, assigns and successors of the respective parties hereto, and upon all purchasers and future owners of lots comprising any part of the Subdivision, and will inure to the benefit of the owners and the Association.

ARTICLE IV **GENERAL PROVISIONS**

4.1 **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order will in no ways affect any of the other covenants, restrictions or provisions hereof, which will remain in full force and effect.

4.2 **Duration and Amendment.** Except as otherwise provided below, the covenants, restrictions and provisions of this Agreement will run with and bind the land for a term of fifteen (15) years from the date this Agreement is recorded, after which time they will be automatically extended for successive periods of ten (10) years. This Agreement may be amended at any time by a two-thirds (2/3) majority vote of the owners of not less than fifty percent (50%) of all lots in the Subdivisions with such amendment becoming effective upon recording with the Otsego County Register of Deeds. By way of illustration, the Subdivisions contain a total of 175 lots. 50% of all lots equals 88 lots. 2/3 of 88 lots totals 59 lots. Hence, this Agreement may be amended at any time by a vote of the owners of not less than 59 lots in the Subdivision.

4.3 **Liability of Board Members.** No Director of the Board of Directors will be personally liable to any lot owner, member or other party, for the damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board of Directors or any other representatives or employees of the Board of Directors or the Association.

4.4 **Approvals.** No lot in the Subdivisions shall be used or shall have any improvement made to it or erected upon it in violation of the ordinances or requirements of Bagley Township, or such other governmental entity as may have jurisdiction thereover.

4.5 **Conflicting Provisions.** This Agreement will take precedence over conflicting provisions in the Original Restriction Agreement for Plat of Crestwood Manor, the Agreement to Modify Restriction Agreement for Plat of Crestwood Manor, and the Bylaws of the Association.

4.6 **Covenants Running with the Land.** Anything to the contrary herein notwithstanding, it is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions will run with the Subdivision and with title to the Subdivision. Without limiting the generality of this section, if any provision or application of this Agreement would prevent this Agreement from running with the Subdivision, such provision or application will be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will show these covenants and restrictions to so run with the Subdivision; however, if such provision and/or application cannot be so modified, such provision and/or application will be unenforceable and considered null and void in order that the paramount goal of the parties that these covenants and restrictions run with the land be achieved.

IN WITNESS WHEREOF, the Association has executed this Agreement on the day and year first above written.

CRESTWOOD HOMEOWNERS ASSOCIATION, INC.

By: _____
Name:
Its: President

STATE OF MICHIGAN)
)ss
COUNTY OF OTSEGO)

On this _____ day of _____, 2021, the foregoing instrument was acknowledged before me by _____, President of Crestwood Homeowners Association, Inc., a Michigan non-profit domestic corporation, on behalf of and by authority of the corporation.

_____, Notary Public
_____ County, Michigan
Acting in _____ County, Michigan
My Commission Expires: _____

Document drafted by and when recorded return to:
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