

**NOTE: THIS IS A REPRODUCTION OF THE ORIGINAL DOCUMENT**

Lottivue #1

EXHIBIT "A" DECLARATION OF RESTRICTIONS

1. THIS AGREEMENT made this \_\_\_\_\_ day of between LOTTIE M. SCHMIDT, INC., a Michigan Corporation of Chesterfield Township, Macomb County, Michigan, Party of the First Part, and \_\_\_\_\_ Party of the Second Part.

WTTNESSETH that:

2. WHEREAS, the party of the first part is the owner of a certain tract of land which it has caused to be platted into Lots 1 to 43 both inclusive, Lottivue Subdivision, being a part of Fractional Section 23 & 26 and Private Claim 342, Town 3 North, Range 14 East, Chesterfield Township, Macomb County, Michigan according to the Plat thereof as recorded in Liber 37 Plats, Pages 18 Macomb County records; and the Party of the Second Part is, upon the execution of this Agreement and the payment of further good and valuable consideration, to become the owner by warranty deed from the Party of the First Part to the Party of the Second Part of Lot # \_\_\_\_\_ of the aforementioned Lottivue Subdivision; and

3. WHEREAS, it is the intent and purpose of the parties hereto to subject all of said lots in said Lottivue Subdivision to certain building restrictions, conditions, obligations, reservations, rights, powers and charges as hereinafter set forth; and

4. THEREFORE, each for a valuable consideration and in consideration of the agreements of the other and of the plan and purpose of said subdivision and to the end that they may be restricted in their use so that they will develop into a residential community of the highest type and in order to make said building restrictions, conditions, obligations, reservations, rights, powers and charges binding and of full force and effect on all of the said lots and upon the present and future owners and occupants of the same, the parties hereto have agreed to enter into this agreement whereby they agree that each and every of said lots shall, when conveyed, be conveyed subject to and charged with all the building restrictions, conditions, obligations, reservations, rights, powers and charges set forth in this agreement and the record of this instrument in the Register of Deeds' Office of Macomb County, Michigan, shall be notice to all purchasers.

5. All of the said lots shall be used for private residence purposes only and no building of any kind whatsoever shall be erected, re-erected, or maintained thereon except private dwelling houses, each dwelling being designed and erected for occupation by a single private family and private garages for the sole use of the respective owners or occupants of the lots upon which such garages or the area upon which such boat houses are erected.

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6. No building, fence, wall, sea wall, piling, or other structure shall be commenced, erected or maintained nor shall any addition to or change or alteration therein be made, except interior alterations, until the plans and specifications showing the nature, kind, shape, height and materials, color scheme, location on lot and approximate cost of such structure and the grading plan (topography and landscaping included) of the lot to be built

upon, which have been submitted to and approved in writing by the Party of the First Part or its duly authorized agent and a copy thereof, as finally approved, lodged permanently with said Party of the First Part. At the time said plans and specifications are submitted to the Party of the First Part, said Party of the First Part shall also receive from the person, firm or corporation submitting said plans, the sum of \$25.00 which shall constitute the compensation to the Party of the First Part or its duly authorized agent for the time and effort expended in the study and examination of said plans and specifications and said Party of the First Part shall be entitled to retain said sum of \$25.00 without regard to whether it approves or disapproves said plans and specifications. Said Party of the First Part shall have the right to refuse to approve any such plans or specifications or grading plans (including topography and landscaping) which are not suitable or desirable in its opinion for aesthetic or other reasons; and in so passing upon such plans, specifications and grading plans (including topography and landscaping) it shall have the right to take into consideration the suitability of the proposed building or other structure to be built to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property. It is understood and agreed that the purpose of this paragraph is to insure the development of the subdivision into a beautiful, harmonious, private residence section. The Party of the First Part shall have fifteen days after said plans and specifications have been submitted to it or its duly authorized agent to either approve or disapprove same.

7. Until the dwelling house is first erected and completed on any of the lots in said subdivision, no other building structure or structures shall be erected thereon.
8. Each dwelling in this subdivision shall be required to erect and maintain an approved outside light of 150 watts or more capacity at the entrance of the driveway servicing said dwelling, with said approval of light and location thereof to be solely determined by the Party of the First Part or its duly authorized agent.
9. In addition to the foregoing restrictions, the following specific restrictions and requirements shall apply to all dwellings erected on lots that possess Lake St. Clair frontage:
  - (a) No dwelling shall be erected upon a lot that has less than 100 feet of Lake St. Clair frontage and a lot area of less than 20,000 square feet;
  - (b) No structure or structures of any kind whatsoever, except as hereinafter set forth in Paragraph 9 (c) hereof, shall be placed or erected at a distance of less than 100 feet from the front lot line;

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- (c) All such dwellings shall front toward Lake St. Clair and no garage shall be erected on any of such Lake St. Clair lakefront lots unless it is attached to the dwelling thereon. No walls or overhangs of any kind whatsoever of any building erected on any such lots shall be at a lesser distance than 10 feet from the side lines of any lot;
- (d) AU dwellings erected on said Lake St. Clair frontage lots shall contain a ground floor area of at least 1,800 square feet and shall have ceiling heights of at least 8 feet; split level or two story shall have 1200 ground floor or total of 2000 feet and shall have ceiling heights of at least 8 feet;

- (e) In order to preserve (from erosion, washing away, attrition or any other cause whatsoever) the present channels of the canals and the water lines thereof uniformly and the present Lake St Clair frontage and the water line thereof uniformly, as well as to maintain the prescribed distances of dwelling houses from Lake St. Clair, there shall be performed and/or constructed fill-in, sheet piling and other structures, barriers, etc., reasonably necessary along the canals and along the lake frontage for such purposes, but all such contracts therefore and the progress of the work thereunder must be approved by the Party of the First Part or its duly authorized agent in writing.
  - (f) The present natural bottom of Lake St Clair extending lakeward from the lots in Lottivue Subdivision that possess Lake St. Clair frontage shall not be removed or disturbed in any way whatsoever.
10. All the lots in Lottivue Subdivision which do not possess Lake St Clair frontage shall be subject to the following specific restrictions and requirements with respect to dwellings to be erected thereon: (a) No dwelling shall be erected on any lot which has a width of less than 80 feet and a total area of less than 12,000 feet, excepting lots 31, 32, 33, 24, 35,36 & 37.
- (b) No structure or structures of any kind whatsoever shall be placed or erected at a distance of less than 50 feet from the front lot line except that on the following lots no structure or structures shall be placed or erected at a distance from the front lot line of less than the distance set forth below:
    - Lots 31, 32, 33, 34, 35, 36 & 37 shall have building lines to be determined by Seller, Seller's Agent or Association at the time plans are submitted for approval.
  - (c) The line of the street abutting each of said lots on its shortest side shall be deemed the front line of said lot and all such dwellings shall face said front line. No walls or overhangs of any kind whatsoever of any building erected on any of such lots shall be at a lesser distance than 5 feet from the side lines of any of said lots;

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- (d) All dwellings erected on said lots shall contain a ground floor area of at least 1500 square feet; split level or two story shall have ground floor area of at least 1000 square feet and total of at least 2000 square feet, and shall have ceiling heights of at least 8 feet;
  - (e) Any garage which does not form a part of the dwelling house shall not exceed one (1) story in height and shall be placed and erected immediately adjacent to any boat well or boat house located on any of said lots.
  - (f) In order to preserve (from erosion, washing away, attrition or any other cause whatsoever) the present channels of the canals and the water lines thereof uniformly, the necessary fill-in, sheet piling and other structures, barriers, etc., reasonably necessary along the canals for such purposes shall be performed and/or constructed, but all such contracts therefore and the progress of the work thereunder must be approved by the Party of the First Part, or its duly authorized agent, in writing.
11. All boat house to be erected on or adjacent to any of said lots in said subdivision shall be in accordance with the following specific restrictions

and requirements;

- (a) All boat houses to be constructed over a boat well which shall not protrude over said lot line;
- (b) All boat houses shall not exceed one (1) story in height;
- (c) All boat houses shall be placed or erected immediately adjacent to any garage located on said lot which does not form part of the dwelling house;
- (d) All boat house shall be erected and constructed only after approval of the plans and locations thereof by Party of the First Part or its duly authorized agent
- (e) All boat houses shall be erected and constructed only after approval of the plans and locations thereof by Party of the First Part or its duly authorized agent.

12. Any of the said lots in said Subdivision may be used by the party of the First Part when necessary or advisable for community purposes, such as the drilling of a well and erection and operation of a tank and pumping plant, the dredging of canals, the maintaining of lots, etc.

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13. Certain of the said lots within said Subdivision hereafter deemed necessary by the Party of the First Part as the location for a properly constructed sewage disposal plant for the accommodation of the property in said Subdivision, may be used by the Party of the First Part for the erection and operation of such sewage disposal plant. The Party of the First Part may maintain on any of the lots in said Subdivision any buildings and equipment it may deem necessary or advisable for use in the proper development, care and maintenance of the property. The Party of the First Part may, by appropriate instrument in writing, release any lot or lots originally owned by it from the provisions of this section.
14. The exterior of all buildings erected in said Subdivision shall be completed within six (6) months from the date of beginning of construction.
15. No outside toilet shall be erected or maintained in said subdivision and all plumbing in dwellings, garages and boat wells shall be connected to septic tanks, the overflow from which shall not be allowed to flow into any canal, roadside ditch or lake. The septic tank shall not be less than one thousand (1,000) gallon capacity and conform to minimum standard of Michigan Department of Health, Bureau of Engineering, and Plan of Sewage Disposal System.
16. No house trailer, trailer, coach, tent or temporary shelter, including fishing shanty, shall be parked, placed, erected or occupied on said premises, except an unoccupied trailer or fishing shanty may be stored in a garage thereon. No trees or dirt shall be removed from any part or portion of said premises without the written consent of the Party of the First Part or its duly authorized agent
17. No waste or destruction of any kind may be committed nor shall any nuisance be permitted on said premises.
18. No part of this Subdivision shall be used or maintained as a dumping ground

for rubbish, trash, garbage or other waste. The Party of the Second Part covenants to dispose of all garbage by means of an approved mechanical disposal unit and all garbage, trash and other waste shall be disposed of at regular intervals either by an approved incinerator or by arrangements for removal thereof from the premises to a public dump or other point of disposal. If such disposition is by removal from the premises, such removal shall take place at least twice each month. Trash, rubbish or other waste, pending removal, shall not be kept except in sanitary containers and shall not be kept in front of any dwelling or in any other place which the Party of the First Part deems detrimental to the appearance or health of the community.

19. No portion or part of any of the land in said subdivision will be graded to a height greater than thirty-six (36) inches above level of the roads traversing same.

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21. (a) No driveways shall be constructed over the roadside drains to Goulette Pointe Drive and Lottie's Drive without first installing 20 feet of 12-inch and 18-inch galvanized culverts respectively at the lot entrances. Said driveways and drains shall not be constructed, erected or placed on any of said lots without first the approval in writing of the Party of the First Part or said Association.

(b) Any and all storm water from lots abutting on Goulette Pointe Drive and Lottie's Drive shall be conducted to the roadside drain adjacent to said roads by approved tile drain of six-inch (6) capacity; said approval shall be by the Party of the First Part or said Association;

(c) Any and all storm water from lots abutting on Keycove Drive shall be conducted to the roadside drain adjacent to said roads by approved tile drain of six-inch (6) capacity; said approval shall be by the Party of the First Part of said Association.

22. All roads traversing or abutting on said premises shall be private roads and all canals upon, across or abutting said premises shall be private canals for the exclusive use of every person residing in or upon said premises shall be private canals for the exclusive use of every person residing in or upon said premises in common with the residents of adjacent premises now or hereafter owned by the Party of the First Part and of no other person or persons whatsoever. No canal or road traversing or abutting said premises shall be used in such a manner as to injure the same or the rights of others entitled to the use thereof, as herein above specified, nor shall either vehicles be parked on any of said roads or boats anchored in any of said canals or used as a place of shade.

23. No boats shall be operated in any canal at a speed greater than three (3) miles per hour.

24. Easements and rights of way are hereby reserved until expressly released or modified by appropriate written instrument signed and acknowledged by the Party of the First Part in and over the rear ten (10) feet of each of said lots and also over a strip of land five (5) feet in width over the side lot lines wherever it may be deemed necessary by the Party of the First Part for the installation or maintenance of telephone or electric poles, lines or conduits, or sewer, drain, gas or water lines or any other service deemed necessary or advisable. Party of the First Part shall have the right to assign the use of said easement to any person, firm or corporation furnishing such service. Any

damage to trees, shrubs, lawns or fences accruing from such installation or maintenance shall be promptly repaired as near as may be by the person, firm or corporation furnishing the service being installed or maintained.

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26. All of the said lots except such as may be given, taken or sold for public purposes or uses, or such as may be held or set aside for the use and benefit of the property owners in said Subdivision, shall be subject to an annual ("annual" shall mean the period of July 1 through the following June 30) maintenance charge of a sum not greater than twenty cents (20 cents) per front foot for all lots commencing July 1, 1956, and at such rate for each year thereafter as may be determined the Party of the First Part, or the Improvement Association, as hereinafter set forth, for the purpose of creating a fund to be known as the Maintenance Fund, and to be paid by the respective owners of the said lots to the Party of the First Part, annually in advance, on the first day of July in each year. For the purpose of determining said maintenance charge on corner lots, the frontage thereof shall be one-half the sum of the front and rear lot lines, plus thirty (30) percent thereof. Said annual charge may be adjusted from year to year by the Party of the First Part hereto, or the said Improvement Association, but in no event shall such charge be more than doubled, except by the approval and consent in writing of the owners of at least seventy-five (75%) of the lots in said plat, which approval and consent shall make any such additional assessment binding upon all of the owners of property in said plat.
27. The Party of the First Part hereto agrees to pay its proper proportion into said fund for the lots owned by it on July 1st of each year, and to apply the total fund arising from said charge as far as same may be sufficient, towards the payment of any so-called Maintenance Expense incurred for any of the purposes as set forth herein.
28. Said Maintenance Fund shall be used for such of the following purposes as the Party of the First Part hereto or the said Association shall determine necessary and advisable; for lighting, sanitation, improving and maintaining roadways and parks of said property; for collecting and disposing of garbage, ashes and rubbish; for employing night watchmen, for caring for vacant property; for removing or cutting grass or weeds; for constructing, purchasing, maintaining or operating any community service, or for doing any other things necessary or advisable in the opinion of the first party of the said Association for keeping the property neat or in good order; and to the enforcement these building restrictions, conditions, obligations, reservations, rights, powers and charges.
29. The erection of any new building structures authorized as provided in this contract, and the re-erection, rebuilding or repair of any of such structures damaged by fire or casualty, shall be pushed to completion as rapidly as possible, and should the owner leave such buildings, in an incomplete condition for a period of ten months, then the said Party of the First Part or the said Association are hereby authorized and empowered either to tear down and clear from the premises the uncompleted portion of such structures, or to complete the same; at their discretion, and in either event, the expense incurred shall be charged against the land and against the owner's interest therein and shall be a lien upon said land, premises and interest.

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30. It is expressly agreed that the Maintenance Fund charge referred to herein, including any expense incurred in removing or completing any building in accordance with the preceding paragraph shall be as lien and encumbrance on the land with respect to which said charges are made and it is expressly agreed that upon becoming a land contract purchaser or fee-simple title holder of any of said lots, the owner ("owner" is herewith defined as either the land contract purchaser or fee-simple title holder of any of the lots in said Subdivision) from the time of acquiring said land contract purchaser's interest or fee-simple title thereto shall be held to have covenant and agreed to pay to the Party of the First Part or said Association all charges provided for herein which were then due and unpaid to the time of his acquiring said land contract purchaser's interest or fee-simple title and all such charges thereafter falling due during his ownership thereof. A certificate in writing signed by the Party of the First Part hereto or its duly authorized agent shall be given on demand to any owner liable on said charges setting forth the status of such charges, which certificate shall be binding on the said Party of the First Part or said Association.
31. By his acceptance of a land contract purchaser's interest or fee-simple title, each owner shall be held to vest in the Party of the First Part or said Association, the right and power in its own name to take and prosecute all suits, legal, equitable or otherwise, which may in the opinion of the Party of the First Part or said Association be necessary or advisable for the collection of such charges.
32. Violation of any condition or restriction or breach of any covenant herein contained, shall give the Party of the First Part, or said Association, in addition to all other remedies, the right to enter on the land as to which such violation or breach exists, and summarily to abate and remove, at the expense of the owner thereof, any erection or any other violation that may be or exist thereon contrary to the intent and provisions thereof; and the Party of the First Part or said Association shall not thereby become liable in any manner for trespass, abatement or removal.
33. All of the restrictions, conditions, covenants, charges, easements and agreements herein contained shall be for a period of twenty-five (25) years from July 1, 1956, and shall automatically be continued thereafter for successive periods of fifteen (15) years each; provided, however, that the owners of the fee-simple title of two-thirds ( $\frac{2}{3}$ rds) or more of the lots in said plat may release all or part of said lots from all or any portion of these restrictions at the end of this first twenty-five (25) year period, or any successive fifteen (15) year period thereafter, by executing and acknowledging an appropriate agreement, or agreements in writing, for such purposes and filing the same for record in the office of the Register of Deeds for Macomb County, Michigan, at least five (5) years prior to the expiration of this twenty-five (25) year period, or of any fifteen (15) year period thereafter.

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34. It is further mutually agreed that the foregoing agreements, conditions and restrictions shall constitute an easement and servitude in and upon the said premises and every part thereof, and that they shall run with the land, and shall inure to the benefit of and be binding upon and enforceable by all original purchasers and subsequent grantees of the said premises, or any part thereof, their respective legal representatives, heirs, successors and assigns, and further, that failure by said first party, or said Association, or by any owner to enforce any building restrictions, conditions, obligations,

reservations, rights, powers and charges herein contained, shall in no event be deemed a waiver of the right to do so thereafter, as to the same breach, or as to a breach occurring prior or subsequent thereto.

35. Any or all of the rights, powers and obligations, title, easements and estates reserved or given to the Party of the First Part in this agreement, may be assigned to any corporation or association, composed of owners of one-half or more of the lots in said Subdivision, that will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its consent to the acceptance of such rights and powers, and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are given herein to and assumed by the Party of the First Part hereto, the Party of the First Part hereto thereupon being released therefrom. When three-fourths (3/4s) of the lots in said plat have been sold by the Party of the First Part hereto, corporation or association of the owners of lots in said plat shall be formed which shall assume said rights, powers, duties and obligations and carry out and perform the same and the Party of the First Part hereto thereupon shall be released. Such corporation or association when formed may be a majority vote combine with any other corporation of owners of lots in any other adjacent subdivisions, and the resultant corporation or association shall have all of the rights, powers, duties and obligations hereby given to the corporation or association first described in this paragraph.

In the Presence of:  
Corp.

Lottie M. Schmidt, Inc., a Michigan

## **AMENDMENT TO DECLARATION OF RESTRICTIONS**

WHEREAS, a declaration of Restrictions has been recorded in Liber 1071 of Deeds, page 70, Macomb County records, with respect to Lots 1 through 43 inclusive of Lottivue Subdivision, with said subdivision being a part of Fractional Section 23 and Private Claim 342, Town 3 North, Range 14 East, Chesterfield Township, Macomb County, Michigan, according to the Plat thereof as recorded in Liber 37 of Plata, page 10, Macomb County records; and,

WHEREAS, on the 15th day of December, 1958, Lottie M. Schmidt, Inc., a Michigan corporation, assigned and transferred all of its rights and obligations under the terms and conditions of the aforementioned Declaration of Restrictions, excepting paragraphs 12 and 13 thereof, to Lottivue Improvement Association, a



Michigan non-profit corporation, with said assignment being recorded on March 26, 1959, in Liber 1188, page 124, of Deeds, Macomb County records; and,

WHEREAS, Lottivue Improvement Association desires to amend certain provisions of said Declaration of Restrictions.

NOW, THEREFORE, said Declaration of Restrictions is hereby amended as set forth below:

Paragraph 11 (a) of said aforementioned Declaration of Restrictions shall be amended to read as follows:

"All boat houses shall be contracted over a boat well which shall ingress from and aggress to said canal and said boat house shall not protrude over said lot line; provided, however, that the boat houses located on Lots No. 1, and 10-16, inclusive, may protrude not in excess of ten (10) feet beyond the lot line into the adjacent canal."