



DECLARATION OF RESTRICTIVE COVENANT⁽²⁾

This Declaration of Restrictive Covenant is made to protect public health, safety, welfare and the environment pursuant to the provisions of Part 111, Hazardous Waste Management, MCL 324.11101 et seq (Part 111) and the applicable Sections of Part 201, Environmental Remediation, MCL 324.20101 et seq (Part 201) of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.101 et seq.

This Declaration of Restrictive Covenant ("Restrictive Covenant") is made on October 30, 2014 by RACER Properties LLC, the Grantor(s), the current fee title holder(s) of the property, whose address is 500 Woodward Avenue, Suite 1510, Detroit, Michigan 48226, for the benefit of the Grantee, State of Michigan, Department of Environment Quality ("MDEQ"), whose address is 525 West Allegan Street, PO Box 30473, Lansing, Ingham County, Michigan 48909-7926.

This Restrictive Covenant has been made to prohibit or restrict activities that could result in unacceptable exposure to environmental contamination present at the property located in Ypsilanti Township, Washtenaw County and Van Buren Township, Wayne County, Michigan (Tax Identification Number(s): K-11-12-100-005 and 83-025-99-0003-701 and legally described in Exhibit 1 ("Property") and illustrated in Exhibit 2.

Recording of this Restrictive Covenant is designed to restrict exposures to groundwater on the Property and require any future work or other activities on the property by or for the owner to be conducted in conformance with; i) applicable MDEQ soil relocation requirements including but not limited to MCL 324.20120c and any related administrative rules and MDEQ guidance, and ii) applicable due care obligations under MCL 324.20107a and associated administrative rules and guidance, and the Hazardous Waste Operations and Emergency Response Standard (HAZWOPER) 29 CFR 1910.

The land or resource use restrictions contained in this Restrictive Covenant are based upon information available at the time this document was recorded. Future changes in the environmental condition of the Property or changes in the cleanup criteria developed under Part 201; the discovery of environmental conditions at the Property that were not known at the time this document was recorded; or use of the Property in a manner inconsistent with the restrictions described herein, may result in this Restrictive Covenant not being protective of public health, safety, and welfare, and the environment. Additional restrictions may become necessary.

Time Submitted for Recording
Date 11-12-2014 Time 9:20AM
Lawrence Kestenbaum
Washtenaw County Clerk/Register

Definitions

"**MDEQ**" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"**Owner**" means at any given time the then current fee title holder(s) and the holder(s) of a life estate of the Property or any portion thereof, including the fee title holder's lessees and those persons or entities authorized to act on its behalf. On March 31, 2011 the Revitalizing Auto Communities Environmental Response Trust ("Trust") took title to the Property – title held by RACER Properties LLC an entity wholly owned by the Trust (RACER Properties and the Trust are collectively referred to herein as "RACER"). RACER was established and assumed the rights, title, and interest of Motors Liquidation Company in and to the Property pursuant to an Environmental Response Trust Consent Decree and Settlement Agreement ("Settlement Agreement") entered by the U.S. Bankruptcy Court for the Southern District of New York on March 29, 2011, in the case of *In re Motors Liquidation Company*, etc. et al, Debtors, Case No. 09-50026 (REG), among the Debtors, the United States of America, certain states including the State of Michigan, the Saint Regis Mohawk Tribe, and EPLET, LLC, (not individually but solely in its representative capacity as Administrative Trustee of the Trust).

All other terms used in this document which are defined in Part 3, Definitions, of the NREPA, Part 111, Part 201, or the Part 111 and Part 201 Administrative Rules, shall have the same meaning in this document as in those statutes and rules as on the date this Restrictive Covenant is made.

NOW THEREFORE,

Declaration of Land Use or Resource Use Restrictions

The Grantor(s) as current fee title holder(s) of the Property, hereby declare(s) and covenant(s) that the Property, shall be subject to those restrictions on use described below and intends that said restrictions and covenants shall run with the land, and may be enforced in perpetuity against the Owner by the following entities: (1) the Grantor, if it is no longer owner; and (2) MDEQ.

1. Land Use Prohibitions. The Owner shall prohibit all uses of the Property that are not compatible with nonresidential land use category under MCL 324.20120a(1)(b) and generally described in the Description of Allowable Uses, attached hereto as Exhibit 3.

Part 201 cleanup criteria for land use-based response activities are located in the Government Documents Section of the State of Michigan Library, MCL 324.201201 *et seq.* effective December 2010, and MAC R 299.5701 – R 299.5727, effective December 21, 2002.

2. Activities Prohibited. The Owner shall prohibit activities on the Property that may result in exposures above the nonresidential land use category. These prohibited activities include:

- a. No drinking water wells may be installed or used on site.
- b. No groundwater extraction wells may be installed or used on site except for wells and devices that are part of an MDEQ approved response activity and for short-term dewatering for construction purposes, provided the

dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable environmental laws and does not cause or result in a new release, exacerbation of any pre-existing environmental condition, or any other violation of environmental laws.

- c. No contaminated soils, if any, may be relocated on site except as provided for under Part 201, Section 20120c, MCL 324.20120c.
- d. No buildings or structures may be constructed on the Property unless the Owner has considered the potential for vapor intrusion, if any, and has taken steps to address such potential, if necessary, as may be required by MDEQ.
- e. Owner shall not "treat," "store," "dispose" or release any Hazardous Substances, on, at, or below the Property, in a manner that would require a permit under the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* or equivalent State Law, except pursuant to a plan or permit approved in writing by MDEQ and Grantor.
- f. If Owner elects to remove any slabs, pavement or other impervious surface on the Property, Owner shall be responsible for any and all obligations under environmental laws arising from any such removal, alteration or disturbance, whether or not caused by, arising from or related to, an environmental condition.

3. Contaminated Soil Management. The Owner shall manage contaminated soils, media and/or debris (if any) and all other soils located on the Property in accordance with the requirements of Part 111, Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* (RCRA), the administrative rules promulgated pursuant to Part 111 and the RCRA, and all other relevant state and federal laws, including but not limited to MCL 324.20120c.

4. Access. The Owner shall grant to the MDEQ the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with this Restrictive Covenant, including the right to take samples and, inspect any records relating thereto, and to perform any actions necessary to maintain compliance with Part 111 and Part 201..

5. Notice. The Owner shall provide notice to the MDEQ of the Owner's intent to transfer any interest in the Property prior to consummating the conveyance. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the terms and conditions of this Restrictive Covenant and the applicable provisions of MCL 324.20116. The notice required to be made to the MDEQ under this Paragraph shall be made to: Chief, Office of Waste Management and Radiological Protection, P.O. Box 30241, Lansing, Michigan 48909-7741 and Chief, Remediation and Redevelopment Division, P.O. Box 30241, Lansing, Michigan 48909-7741 (or to the similar position should the MDEQ change organizational names from time to time); and shall include a statement that the notice is being made pursuant to the requirements of this Restrictive Covenant. A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest.

6. Term. This Restrictive Covenant shall run with the Property and shall be binding on the Owner, and all current and future successors, lessees, easement holders, their assigns, and their authorized agents, employees, or persons acting under their direction and control. This Restrictive Covenant may only be modified or rescinded with the written approval of the MDEQ.

7. Enforcement. The Grantor is entitled to enforce the restrictions and covenants in this Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction against subsequent Owners of all or part of the Property. The Grantor, on behalf of itself, and its successors in title, intends and agrees that MDEQ is entitled to enforce the restrictions and covenants in this Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction against the Grantor, as Owner, and thereafter against subsequent Owners of all or part of the Property. All remedies available hereunder shall be in addition to any and all other remedies at law or equity.

8. Severability. If any provision of this Restrictive Covenant is held to be invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions of this Restrictive Covenant and all other provisions shall continue to remain in full force and effect.

9. Limitation on RACER's Liability. RACER's and the Administrative Trustee's liability is limited by the terms and conditions of the Settlement Agreement, which are incorporated herein by reference.

10. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant represents and certifies that he or she is duly authorized and has been empowered to execute and deliver this Restrictive Covenant.

This Instrument is exempt from State and County Transfer Tax pursuant to Michigan Compiled Laws §§ 207.526(a) and 207.505(a).

Consideration is \$100 J.J.

[Signature appears on following page]

IN WITNESS WHEREOF, RACER PROPERTIES LLC has caused this Restrictive Covenant, to be executed on this 26th day of September, 2014.

GRANTOR:

Dated as of 9/26, 2014

**RACER PROPERTIES LLC,
a Delaware limited liability company**

By: Revitalizing Auto Communities Environmental
Response Trust, Sole Member of RACER
Properties LLC

By: EPLET, LLC, acting solely in its capacity as
Administrative Trustee of Revitalizing Auto
Communities Environmental Response Trust

By:

Elliott P. Laws
ELLIOTT P. LAWS, not individually,
but acting solely in his capacity as
Managing Member

District Columbia
STATE OF)
city) SS:
COUNTY OF Washington)

On the 26th day of September, 2014 before me a Notary Public for the State and County aforesaid, personally appeared ELLIOTT P. LAWS, who acknowledged himself to be the Managing Member of EPLET, LLC, the Administrative Trustee of the Revitalizing Auto Communities Environmental Response Trust (the "Trust"), Sole Member of RACER Properties LLC, a Delaware limited liability company, and that he, being authorized to do so, executed the foregoing Declaration of Restrictive Covenant on behalf of RACER Properties LLC, not individually, but solely in his capacity as the Managing Member of EPLET, LLC, Administrative Trustee of the Trust, its Sole Member, for the purposes therein contained by signing his name.

WITNESS my hand and seal the day and year aforesaid.

Notary's Signature: Myung H. Wang
Notary's Name: _____
Notary Public, State of _____
County of Myung H. Wang
My Commission Expires Notary Public, District of Columbia
Acting in the County of: My Commission Expires 6/14/2019

PREPARED BY AND WHEN RECORDED RETURN TO:

Dawda, Mann, Mulcahy & Sadler, PLC
39533 Woodward Avenue, Suite 200
Bloomfield Hills, Michigan
Attention: Edward C. Dawda

WHEN RECORDED
RETURN TO:

Title Source Inc.
662 Woodward Avenue
Detroit, MI 48226

592.10296 J.J.
COMMERCIAL



EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY

Real property in the Township of Ypsilanti, County of Washtenaw, State of Michigan, described as follows:

PT E 1/2 SEC 12, T. 3 S., R. 7 E., YPSILANTI TWP, WASHTENAW CO, MICHIGAN DESCRIBED COMM NE COR SEC 12 AND RUNNING TH S 01-27-26 W ALG THE E LI OF SD SEC 12, 33.00 FT TO THE NW COR OF SEC 7, T. 3 S., R. 8 E., VAN BUREN TWP, WAYNE CO, MICHIGAN; TH N 87-37-30 E, ALG THE N LI OF SD SEC 7, 33.07 FT; TH S 01-27-26 W, ALG A LI PARALLEL WITH THE LI COMM TO SD SECS 7 AND 12, 525.40 FT TO APT; TH N 89-58-35 W, CROSSING SD COMM SEC LINE, 1027.30 FT TO A PT IN THE INTERIOR OF SD SEC 12; TH S 00-01-25 W 892.33 FT TO APT; TH S 44-58-35 E 253.84 FT TO APT; TH S 89-58-35 E, 787.98 FT PT ON THE E LI OF SD SEC 12; TH S 01 27-26 W 574.39 FT TO THE POB; PRO TH FROM SD PT OF BEG, S 01-27-26 W, ALG THE E LI OF SD SEC 12, 477.35 FT TO THE E 1/4 COR OF SD SEC 12; TH S 00-02-43 W, ALG THE E LI OF SD SEC 12, 352.56 FT TO APT; TH S 89-42-46 W 141.66 FT TO APT; TH N, 40.00 FT TO APT; TH N 75-54-30 W 404.79 FT TO APT; TH W, 512.11 FT TO APT; TH N 00-02-00 E 418.67 FT TO APT; TH S 89-58-00 E 443.50 FT TO APT; TH N 45-02-00 E 69.30 FT TO APT; TH N 00-02-00 E 224.85 FT TO APT; TH S 89-58-00 E 565.84 FT TO THE POB.

Part of Tax Parcel No. K-11-12-100-005

and

Real property in the Township of Van Buren, County of Wayne, State of Michigan, described as follows:

PART OF THE WEST 1/2 OF SECTION 7, T. 3 S., R. 8 E., VAN BUREN TOWNSHIP, WAYNE COUNTY, MICHIGAN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE WEST 1/4 CORNER OF SECTION 7, T. 3 S., R. 8 E., VAN BUREN TOWNSHIP, WAYNE COUNTY, MICHIGAN AND PROCEEDING THENCE FROM SAID POINT OF BEGINNING NORTH 01 DEGREE 27 MINUTES 26 SECONDS EAST, ALONG THE WEST LINE OF SAID SECTION 7, A DISTANCE OF 477.35 FEET TO A POINT; THENCE SOUTH 89 DEGREES 58 MINUTES 00 SECONDS EAST A DISTANCE OF 107.72 FEET TO A POINT; THENCE DUE SOUTH A DISTANCE OF 829.09 FEET TO A POINT; THENCE SOUTH 89 DEGREES 42 MINUTES 46 SECONDS WEST A DISTANCE OF 120.09 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 7; THENCE NORTH 00 DEGREES 02 MINUTES 43 SECONDS EAST A DISTANCE OF 352.56 FEET TO THE POINT OF BEGINNING.

Part of Tax Parcel No. 83-025-99-0003-701

EXHIBIT 2

DRAWING ILLUSTRATING DESCRIPTION OF PROPERTY

(See attached)

PART OF THE WEST 1/2
OF SECTION 7, T. 3 S.,
R. 8 E., VAN BUREN TWP.,
WAYNE COUNTY

PART OF THE EAST 1/2
OF SECTION 12, T. 3 S., R. 7 E.,
YPSILANTI TWP., WASHTENAW CO., MICHIGAN

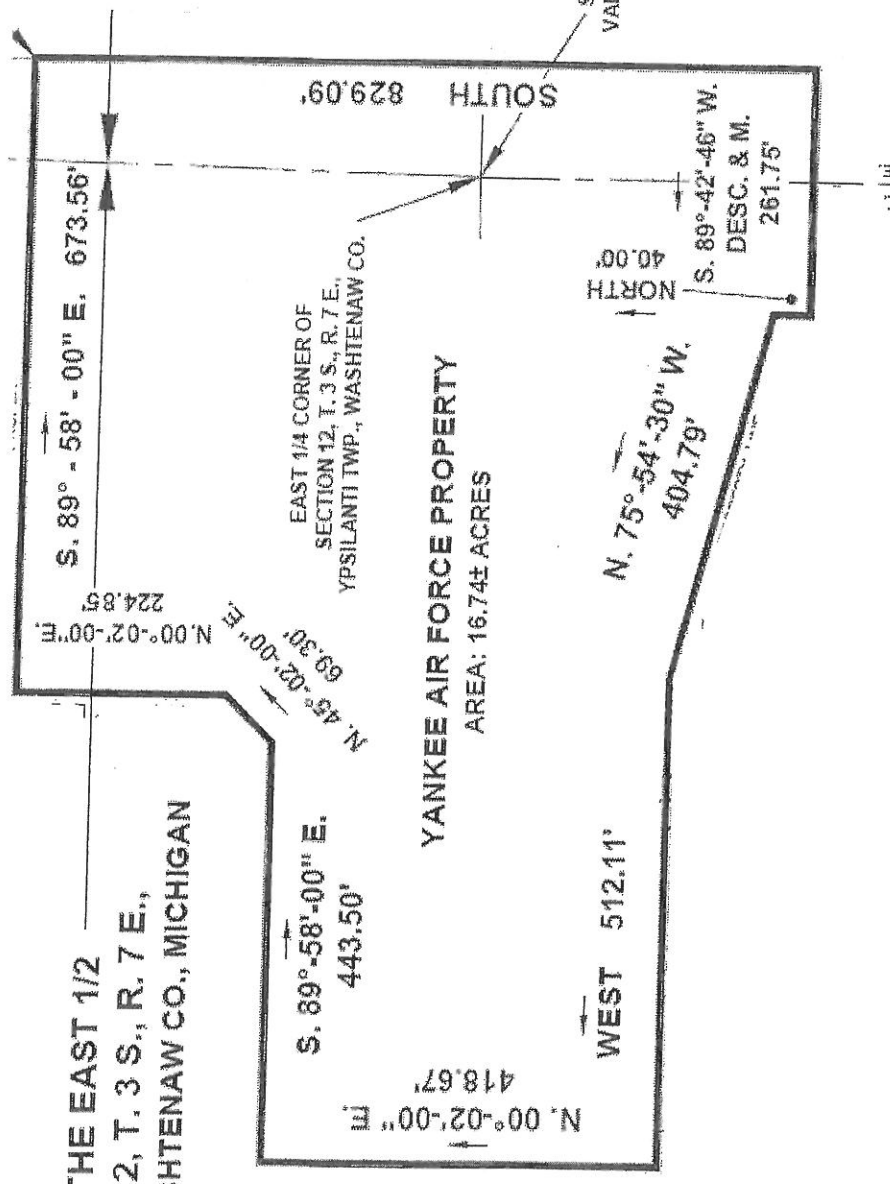


EXHIBIT 3

DESCRIPTION OF ALLOWABLE USES

Nonresidential Land Use: This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses. Industrial uses typically involve manufacturing operations engaged in processing and manufacturing of materials or products. Other examples of industrial uses are utility companies, industrial research and development, and petroleum bulk storage. Commercial uses include any business or income-producing use such as commercial warehouses, lumber yards, retail gas stations, auto dealerships and service stations, as well as office buildings, banks, and medical/dental offices (not including hospitals). Commercial uses also include retail businesses whose principal activity is the sale of food or merchandise within an enclosed building and personal service establishments which perform services indoors such as health clubs, barber/beauty salons, photographic studios, etc.

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Residential use is also characterized by any use which is intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming use is also restricted per the prohibitions contained in this restrictive covenant.