

DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
WINDSOR WOODS SUBDIVISION.

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WINDSOR WOODS SUBDIVISION (the "Declaration"), is made on the date hereinafter set forth by PERRY HOMES, INC. ("Perry"), an Ohio corporation (hereinafter referred to as "Declarant") and the persons signing below ("Additional Declarants").

WITNESSETH:

WHEREAS, Declarant and Additional Declarants are the owners of all of that certain real property in Cuyahoga County, Ohio (the "Property"), which is more particularly described on Exhibit A attached hereto and incorporated herein by reference, and desires to create on such Property a residential community consisting of single-family homes; and

NOW, THEREFORE, Declarant and Additional Declarants hereby declare that the Property shall be held, sold, and conveyed pursuant to this Declaration and the covenants, conditions and restrictions described herein, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the title to the Property and shall be binding on and inure to the benefit of any and all parties having any right, title, or interest in or to the Property or any part thereof, and such parties' heirs, representatives, successors and assigns.

ARTICLE I  
DEFINITIONS

Section 1. "Architectural Review Committee" and "ARC" shall have the meaning ascribed to such terms in Article IX of this Declaration.

Section 2. "Articles" shall mean and refer to the Articles of Incorporation of the Association, including any and all amendments or modifications to those Articles.

Section 3. "Assessment" and "Annual Assessment" and "Special Assessment" shall have the meanings ascribed to such terms in Article V of this Declaration.

Section 4. "Association" shall mean and refer to WINDSOR WOODS HOMEOWNERS ASSOCIATION, INC., an Ohio nonprofit corporation, and its successors and assigns.

Section 5. "Board of Trustees" shall mean and refer to the Association's Board of Trustees.

Section 6. "Bylaws" shall mean and refer to the Bylaws of the Association, including, without limitation, any and all amendments or modifications to those Bylaws.

Section 7. "Common Area" or "Common Areas" shall mean common landscaping, drainage, open space areas and wetlands areas now or hereafter designated or created within the Property and any and all other real property (including any improvements thereon) owned or leased by the association (in fee simple or otherwise) for the common use and enjoyment of the Owners. The initial Common Area shall be that portion of the Property more particularly described on Exhibit B attached hereto and incorporated herein by reference.

**Section 8.** For the purpose of this Declaration and the powers, rights, and authorities granted to Declarant herein, "Declarant" shall mean and refer to Perry and any successor, alternate, or additional Declarant appointed by Perry by an instrument specifically setting forth that such successor, alternate, or additional Declarant shall have, together with or in lieu of Perry, Declarant's rights, duties, obligations, and responsibilities, in whole or in part, for all or any portion of the Property.

"Declarant" shall not include any person or party who purchases a Lot from Declarant, unless such purchaser is specifically assigned, by a separate recorded instrument, some or all of Declarant's rights, duties, obligations, or responsibilities under this Declaration with regard to the property conveyed.

**Section 9.** "Lien" shall have the meaning ascribed to it in Article V of this Declaration.

**Section 10.** "Lot" shall mean and refer to any plot of land shown as a lot upon any recorded subdivision map or plat of the Property, with the exception of the Common Area. Lots may be vacant land, or they may contain residential structures.

**Section 11.** "Member" shall have the meaning ascribed to it in Article IV of this Declaration.

**Section 12.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include Declarant.

**Section 13.** "Property" shall mean and refer to all of the real estate described on Exhibit A and such additions thereto as may hereafter be brought within the jurisdiction of the Association and made subject to this Declaration by recorded supplemental instrument.

## ARTICLE II PURPOSE OF THE ASSOCIATION

Declarant, in order to insure that the Common Area and other areas for which it is responsible will continue to be maintained in a manner that will contribute to the comfort and enjoyment of the Owners and provide for other matters of concern to them, has organized the Association. The purpose of the Association shall be to operate, maintain, and repair the Common Area and any improvements thereon, to maintain certain decorative entranceways and common landscaping on the Property and other features within the Property as designated by the Board of Trustees, to pay for the costs of lighting for the Common Area, if any, and to take such other action as the Association is authorized to take with regard to the Property pursuant to its Articles of Incorporation and Bylaws or this Declaration. The Association may maintain any other area, on the Property or otherwise, if the Board of Trustees determines such maintenance to be in the best interests of the Owners.

ARTICLE III  
PROPERTY RIGHTS

**Section I. Owners' Easements of Enjoyment.** Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. the right of the Association, from time to time, in accordance with its Articles or Bylaws, to establish, modify, amend, and rescind reasonable rules and regulations regarding use of the Common Area;

B. the right of the Association to charge reasonable admission and other fees for the use of any recreational facility or area situated upon the Common Area, which fees may be used to discharge the general financial obligations of the Association;

C. the right of the Association to suspend the voting rights of, and right to use the Common Area by, an Owner for any period during which any assessment levied under this Declaration against such Owner's Lot remains unpaid and suspend such rights for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

D. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility as provided by its Articles or Bylaws. No such dedication or transfer shall be effective unless an instrument has been recorded, signed by at least one-half (1/2) of each class of Members;

E. the right of the Association to grant easements in and to the Common Area, or any part thereof, as provided by its Articles or Bylaws;

F. the right of the Association to otherwise deal with the Common Area as provided by its Articles or Bylaws;

G. the right of the Association to open the Common Area, including any recreational facilities or areas thereon, for use by non-members of the Association, including the general public;

H. the right of the Association to release or convey its rights to any part of the Common Area, whether or not deeded to the Association, to Declarant or any Owner to facilitate development of residential dwellings, so long as such release or conveyance does not substantially, materially, and adversely affect the function and use of the remaining Common Area;

I. the right of Declarant to transfer or dedicate any portion of the Common Area to a governmental agency having jurisdiction thereof;

J. the right of Declarant and its designees to use Common Area parking areas for parking by its employees and invitees; and

K. the right of the Association to plant, replant, care for and maintain hedges or

bushes along the sidewalks throughout the Property. No owner shall in any way remove, alter, modify, cut, interfere with, or change such hedges or bushes, without the prior written approval of the Board of Trustees.

**Section 2. Tenant's Rights.** Any Owner may assign its rights in and to the Common Area to a tenant of such Owner's House, subject to this Declaration, the Articles and the Bylaws. Such tenant shall be required to comply with all covenants, conditions and restrictions provided for herein and therein.

**Section 3. Prohibition of Certain Activities.** No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or any tenant or invitee of any Owner. No noxious, destructive, or offensive activity shall be permitted in or on the Common Area or any part thereof, nor shall any activity be permitted which may be or may become an unreasonable annoyance or nuisance to any other Owner. No Owner may maintain, treat, landscape, sod, place, or erect any improvement or structure of any kind on any Common Area, without the prior written approval of the Board of Trustees.

**Section 4. Signs Prohibited in Common Area.** No sign of any kind shall be displayed in or on the Common Area, without the prior written consent of the Board of Trustees. This section shall not apply to Declarant or to the Association.

**Section 5. Rules and Regulations.** No Owner or any tenant or invitee of any Owner shall violate the reasonable rules and regulations governing use of the Common Area promulgated by the Association and amended from time to time.

**Section 6. Title to Common Area.** No later than the time Declarant no longer exercises voting control over the Association as provided in Article IV of this Declaration continuously for a period of one (1) year, Declarant shall convey, and the Association shall accept, title to any Common Area, subject to such easements, reservations, conditions, and restrictions as may then be of record. Declarant may convey, and the Association shall accept, title at any time prior to the time referred to in this Section 6, at Declarant's option.

#### ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

**Section 1.** Each Owner of a Single-family Lot shall be a member of the Association (a "Member"), and shall be subject to and bound by the Articles, Bylaws, the Association's rules and regulations, and this Declaration. The foregoing does not include persons or entities who hold a leasehold interest or interest merely as security for the performance of an obligation. Ownership shall be the sole qualification for membership. When any Single-family Lot owned of record by two or more persons or other legal entities, all such persons or entities shall be Members, but multiple ownership shall not result in additional voting rights. An Owner of more than one Lot shall be entitled to one membership for each such Lot. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot and it shall automatically be transferred by conveyance of that Lot. Declarant shall be a Member so long as it owns one or more Lots.

**Section 2.** The Association shall have two (2) types of Members: Class A and Class B. All votes shall be cast in the manner provided in the Bylaws. The two types of Members and voting rights related thereto, are as follows:

- A. **Class A.** Class A Members shall be all Owners with the exception of Declarant. Each Class A Member shall be entitled to one vote for each Lot of which it is the Owner. In the case of any Lot owned of record in the name of two or more persons or entities, all such persons or entities shall exercise their vote as they among themselves determine; provided, however, that in no event shall there be more than one vote with respect to any such Lot.
- B. **Class B.** Class B Members shall be Declarant. Notwithstanding anything in this Declaration to the contrary, until all of the Lots have been sold and conveyed by Declarant, the Class B Member shall have a total number of votes equal to the number of votes cumulatively held by all other Members, plus one (1), thereby providing the Class B Member with a majority of the votes of the Association. On the date Declarant sells and conveys its last remaining Lot, Class B of the membership shall terminate.

ARTICLE V  
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

**Section 1. Responsibilities.** The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control of the Common Area and shall keep the same in good, clean, and proper condition, order, and repair. The Association shall be responsible for the payment of all costs, charges, and expenses incurred in connection with the operation, administration, and management of the Common Area, and performance of its other obligations hereunder. The Association shall operate and maintain areas designated by Declarant as Common Areas, whether or not title to those areas has been formally conveyed to the Association. With respect to the Lots, lawn care and landscaping maintenance shall be the responsibility of the Owners. Snow removal shall be the responsibility of Owner's of the Lots.

**Section 2. Manager.** The Association may obtain, employ, and pay for the services of an entity or person as manager to assist in managing its affairs and carrying out its responsibilities hereunder, as well as such other personnel as the Association shall determine to be necessary or desirable, whether such personnel are engaged, furnished, or employed directly by the Association or such manager. The Association may enter into a Management Agreement for management services with any entity as the Board of Trustees deems appropriate or necessary.

**Section 3. Personal Property for Common Use.** The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as provided in the Articles or Bylaws.

**Section 4. Insurance.** The Association shall procure and at all times maintain adequate policies of public liability and other insurance as it deems advisable or necessary. The Association may cause all persons responsible for collecting and disbursing Association funds to be insured or bonded with adequate fidelity insurance or bonds.

**Section 5. Implied Rights.** The Association may exercise (i) any right or privilege given to it expressly by this Declaration, the Articles, the Bylaws, or by law, and (ii) every other right or privilege reasonably implied from the existence of any right or privilege granted herein or therein or reasonably necessary to effectuate the exercise of any right or privilege granted herein or therein.

ARTICLE VI  
COVENANTS FOR ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation of Owners for Assessments.** Each Owner, by acceptance of a deed for such Owner's Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) an annual assessment or charge (the "Annual Assessment"), which shall be paid in quarterly installments, and (b) special assessments for capital improvements and unexpected operating costs (a "Special Assessment"), such assessments to be established and collected as provided herein (the Annual Assessment and each Special Assessment collectively referred to herein as the "Assessments"). The Assessments shall be effective from, and relate back to, the date of recording this Declaration and shall be a charge on the Property and shall be secured by a continuing lien upon the property in favor of the Association against which each such Assessment is made (the "Lien"). The Lien shall also secure interest on unpaid Assessments, lines for violation of this Declaration, the Bylaws or the rules and regulations of the Association, the costs of collecting unpaid Assessments and fines, and court costs for actions enforcing this Declaration and obtaining injunctions, all including reasonable attorney's fees. Notice of the Lien will be given by recording a Claim of Lien in the public records of Cuyahoga County, Ohio, stating the Lot description, the name of the Owner of such Lot, the amount due, and the due date. A Claim of Lien may be filed against a Lot for any unpaid Assessments or other charges hereunder after conveyance of the Lot to an Owner by Declarant. Each Assessment or charge, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. Such Owner's personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by such successor.

**Section 2. Purpose of Annual Assessment.** The Annual Assessment shall be used to promote the recreation, health, safety, and welfare of the residents of the Property, and for the improvement and maintenance of the Common Area and the carrying out of the other responsibilities and obligations of the Association under this Declaration, the Articles, and the Bylaws. Without limiting the generality of the foregoing, the Annual Assessment may be used for the acquisition, improvement, and maintenance of properties, services, and facilities related to the use and enjoyment of the Common Area, including the costs of repair, replacement, and additions thereto; reserves for the future costs thereof; the cost of labor, equipment, supplies, materials, management, and supervision thereof; the costs of repair, replacement, and additions to entrance and directional signage and, pursuant to agreements between Declarant and any homeowners association formed by Owners as may be approved by the Board of Trustees, the payment of taxes and assessments made or levied against the Common Area and any property of the Association; the procurement and maintenance of insurance; the employment of attorneys, accountants, engineers, and other professionals to advise and represent the Association when necessary or useful; and such other needs as may arise.

**Section 3. Purpose of Special Assessments.** Special Assessments shall be for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of capital improvements upon the Common Area, including buildings and fixtures and personal property related thereto and for other purposes as designated by the Association, provided that Special Assessments shall have the assent of sixty percent (60%) of the votes Members who are voting in person or by proxy at a meeting duly called for such purpose. Written notice of any meeting called for the purpose of taking any such action shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of Members or of

proxies entitled to cast one-third (1/3) of all votes shall constitute a quorum.

**Section 4. Assessment Rate.** Subject to the provisions contained in this Section 4, the Annual Assessment shall be fixed by the Board of Trustees. The Annual Assessment for each Single-family Lot shall be the same. Upon acquisition of title to a Single-family Lot (whether an initial sale or resale), as evidenced by the recording of the deed with the Cuyahoga County Recorder, each Owner shall promptly pay an amount equal to one quarter (1/4) of the Annual Assessment for such Lot to the Association as that Owner's initial assessment. This initial assessment shall apply to each subsequent resale of a Single-family Lot and shall be paid by each subsequent Owner thereof.

**Section 5. Declarant's Assessments.** Notwithstanding any provision to the contrary in this Declaration or the Association's Articles or Bylaws, Declarant shall not be obligated for, nor subject to, any Annual Assessment.

Upon the termination of Declarant's Class B membership pursuant to Article IV of this Declaration, each Lot owned by Declarant that has a completed dwelling for which a certificate of occupancy has been issued shall thereafter be assessed at twenty-five percent (25%) of the Annual Assessment established for Lots owned by Owners other than Declarant. Such Assessment shall be prorated and become payable as to the remaining months of the year, if any, in which such termination occurs. Lots that are owned by Declarant and vacant shall not be subject to any Assessment. Upon transfer of title to a Lot owned by Declarant, the Lot shall be assessed in the amount established for Lots owned by Owners other than Declarant, prorated as of the first day of the month following the date of transfer of title.

Declarant shall not be responsible for any cost associated with a reserve for replacements, operating reserves, depreciation reserves, capital expenditures, or Special Assessments. Declarant shall be assessed only for Lots that are encumbered by this Declaration.

**Section 6. Exemption from Assessments.** The Assessments, charges, and liens provided for in this Article VI shall not apply to: (i) Declarant, (ii) the Common Area, (iii) any property dedicated to, or accepted for maintenance by, a public or governmental authority or agency, (iv) any property owned by a public or private utility company or public or governmental body or agency, or (v) any property used for commercial purposes. Notwithstanding the foregoing, any Lots from which Declarant derives rental income or holds an interest as mortgagee shall be assessed at the same amount as Lots owned by Owners other than Declarant, prorated as of and commencing with the month following the execution of such rental agreement or mortgage.

**Section 7. Date of Commencement of Annual Assessments; Due Dates.** The Annual Assessment provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to an Owner other than Declarant. The first Annual Assessment shall be adjusted according to the number of months remaining in that calendar year. The Board of Trustees shall fix the amount of the Annual Assessment, which shall be paid quarterly, against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject hereo. The due dates shall be on the first day of each quarter or on such other dates as may be established by the Board of Trustees. The Association shall, upon demand, and for a reasonable uniform charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments or any installments on a specified Lot have been



paid or are delinquent and, if so, the particulars of the delinquencies. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 8. Lien for Assessments.** All sums assessed against any Lot pursuant to this Declaration, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, at trial and on appeal, shall be secured by the Lien.

**Section 9. Effect of Nonpayment of Assessments; Remedies of the Association.** Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of eighteen percent (18%) per annum or the maximum rate allowed by law. The Association may bring an action directly against the Owner, exercise its rights pursuant to the Lien, or both. Non-use of the Common Area or abandonment of such Owner's Lot shall not constitute a waiver of liability as to, or other release of, such Owner.

**Section 10. Foreclosure.** The Lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Ohio, or as otherwise provided by Ohio law. In any such foreclosure, the Owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees, at trial and on appeal. All such costs and expenses shall be secured by the Lien. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the Lien as of the date the Owner's title is divested by such foreclosure. The Association shall have the right and power to bid at the foreclosure sale to acquire the Lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the owner thereof.

**Section 11. Subordination of the Lien to Mortgages.** The Lien shall be subordinate to any first mortgage which is recorded prior to any Claim of Lien. Sale or transfer of any Lot shall not affect the Lien. However, the sale or transfer of such Lot shall extinguish the Lien with respect to Assessments which became due prior to such sale or transfer. No sale or transfer shall relieve the Owner of such Lot from liability for any Assessments becoming due prior to such sale or transfer or from the Lien.

## ARTICLE VII GENERAL PROVISIONS

**Section 1. Deed Restrictions.** In addition to the covenants, conditions and restrictions contained in this Declaration, Declarant may record, with respect to the Property or any portion thereof, specific deed restrictions, declarations of covenants, conditions, and restrictions, and/or community association documents, either by master instrument or individually recorded instruments. The covenants, conditions, and restrictions contained in such documents may vary for different parts of the Property. Any portion of the Property made subject to such covenants, conditions and restrictions shall also be subject to this Declaration. The Association shall have the power to enforce all restrictions on any portion of the Property. Nothing contained in this Declaration shall require Declarant to impose restrictions of any kind other than this Declaration on all or any portion of the Property.

**Section 2. Enforcement.**

A. Persons Entitled to Enforce. Declarant, Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. Mediation and Arbitration. In the event of a dispute, claim, or controversy arising out of or relating to the breach, termination, validity, interpretation, enforcement, or implementation of any term or provision of this Declaration ("Dispute"), the Owners and the Association agree to submit the Dispute first to mediation and then to voluntary, binding arbitration, as follows:

In the event the parties cannot successfully negotiate a resolution of the Dispute within thirty (30) days of its occurrence, any party to the Dispute may notify the other parties to the Dispute that the matter will be submitted to mediation in accordance with the Commercial Mediation Rules of the American Arbitration Association ("Mediation Rules") and that all parties to the Dispute shall bear equally the costs of the mediation or as otherwise directed by the mediator. The panel shall consist of one mediator and shall be selected according to the Mediation Rules. The parties agree to participate in good faith in the mediation and negotiations related thereto.

If the Dispute cannot be resolved through mediation, within ten (10) days after the failure to resolve the Dispute through mediation, any party may notify the other parties to the Dispute that the matter will be submitted to voluntary, binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The panel shall consist of one arbitrator and shall be selected according to the Arbitration Rules.

If a person or party is found in the proceedings to be in violation of, or attempting to violate, the provisions of this Declaration, such person or party shall bear all costs and expenses of the Dispute resolution, including court costs and reasonable attorney's fees, for all mediation, arbitration, trial, and appellate proceedings incurred by the party enforcing the provisions of this Declaration.

C. Nothing contained in this Article VIII shall in any way limit or affect the Association's right to immediately file an action in the appropriate court to collect any assessment or enforce any lien under Article VI hereof. Declarant shall not be obligated to enforce this Declaration or any particular provision hereof and shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than itself.

Section 3. Severability. Invalidation of any one of the terms of this Declaration by judgment or court order shall in no way affect any other term, each of which shall remain in full force and effect.

Section 4. Amendment.

A. The covenants, conditions and restrictions of this Declaration shall run with and bind all of the Property, for a term of thirty (30) years from the date this Declaration is recorded.

after which time they shall be automatically extended for successive periods of ten (10) years each. Except as otherwise provided herein, this Declaration may be amended only by recorded instrument signed by not less than two-thirds (2/3) of the Owners. For so long as Declarant owns any Lot in the Property, any amendment of this Declaration must be approved in writing by Declarant. At any time a Class B membership exists, this Declaration may be amended by recorded instrument executed solely by Declarant, without the necessity of the approval of joinder of any other Owner or the Association, and an officer of the Association shall execute a certificate indicating the amendment is consistent with this Declaration.

B. Anything in this Declaration to the contrary notwithstanding, if any amendment to this Declaration is required at any time by an institutional mortgagee, such as a bank, savings and loan association, or insurance company, or any governmental agency, such amendment shall be effective upon recording of such amendment as executed by Declarant, without the necessity of the approval or joinder of any other Owner or the Association. No such amendment may adversely affect the lien or priority of any institutional first mortgage recorded prior to the amendment.

C. Until the completion of the contemplated improvements on the Property, and closing of all Lot sales, Declarant specifically reserves the right, without the joinder of any person or other legal entity, to make amendments to or corrections of this Declaration and its exhibits and in the General Land Plan, as may be required by any lender, governmental authority, or as may, in Declarant's sole judgment, be necessary or desirable. This paragraph shall take precedence over any other provision of this Declaration or its attachments. No such amendment shall impair the security or priority of an institutional first mortgage.

Section 6. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including without limitation." The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

Section 7. Obligation of Cooperation by Association. Any and all additions to the Common Area by Declarant shall be accepted by the Association. The Association upon request of Declarant and without further consideration shall be required to execute any documents necessary to evidence the acceptance of such addition to the Common Area.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Property, Declarant hereby reserves to Declarant an easement across all of the Common Area and additions to the Common Area for the construction of water, sewer, drainage, telephone, cable television, water retention, and electric facilities deemed by Declarant necessary for the development and enjoyment of the Property and Common Area and for the conduct of all construction, sales, and marketing activities deemed necessary by Declarant.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Property, Declarant hereby reserves the right to alter the boundaries of the Common Area whether or not it has been previously deeded to the Association, provided that such alteration does not substantially, materially, and adversely affect the function and use of the Common Area.

The Association and each Owner hereby irrevocably appoints Declarant as their attorney-in-fact to execute and/or deliver any documents, plats, deeds, or other written matters necessary or convenient to accomplish the addition of Common Area or Property or both, to create easements as deemed necessary by Declarant, and to adjust the boundary or boundaries of the Common Area.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Property, neither the Association nor its Members nor the use of the Common Area by the Association and its Members shall interfere with the completion of the contemplated improvements or the marketing and sale by Declarant of Lots within the Property.

Until Declarant or its assigns has built improvements upon and sold all of its Lots within the Property, Declarant reserves the right to make such use of Lots and the Common Area as may facilitate completion and sale of Lots by Declarant. Without limiting the foregoing, Declarant shall have the right to maintain sales offices, model units, administration offices, and construction offices (which may be construction trailers or temporary or permanent buildings), or any or all of same, on Lots or on the Common Area. Declarant further shall have the right to erect and maintain signs on Lots or on the Common Area, shall have the right to bring prospective purchasers upon the Common Area, shall have the right to use the Common Area for purposes of making sales of Lots, shall have the right to grant the right of use of the Common Area to any prospective buyers of Lots or any other individual or group in Declarant's sole discretion, and shall be entitled to conduct all other marketing activities desired by Declarant.

In addition to all other rights of Declarant, until Declarant has built and sold all of the Lots within the Property, no amendment shall be made to this Declaration, and no rules or regulations shall be adopted by the Association, which shall modify the Assessments or other charges on Declarant's Lots or which shall restrict, impair, or, in Declarant's sole judgment, materially adversely affect the activities of Declarant with regard to construction, use of Common Area, and delegation of use of Common Area, and marketing and sale of the remaining Lots on the Property, whether or not such activities are enumerated in the preceding paragraphs, without the express prior written consent of Declarant.

**Section 8. Insurance.** Each Owner shall keep its Lot and any improvements thereon insured against loss from casualty at all times in an amount not less than the replacement value of such Lot and improvements. From time to time, the Association may request, and the Owner shall provide, a certificate or certificates evidencing that such coverage is in effect. If any Owner fails to carry the insurance coverage required hereby, the Association may procure and maintain such insurance coverage and such Owner shall promptly reimburse the Association for any premiums paid by the Association for such insurance coverage.

**Section 9. General Liability Insurance.** Each Owner shall maintain general liability insurance with respect to such Owner's Lot and the Common Area in such amounts and with such insurers as shall be deemed acceptable by the Association. Such general liability insurance shall name the Association as an additional insured. Upon the Association's request, each Owner shall provide proof of such insurance to the Association.

#### ARTICLE VIII

## USE RESTRICTIONS

**Section 1. Model Homes.** No trade, business, profession, or other type of commercial activity shall be carried on upon any Lot, except that real estate brokers, Owners, and their agents may show Lots for sale. Every person or entity purchasing a Lot recognizes that Declarant, its agents and designated assigns shall have the right to (i) use Lots and improvements thereon for sales offices, field construction offices, storage facilities, and its own general business offices, (ii) maintain fluorescent-lighted or spot-lighted model homes which are open to the public for inspection seven (7) days per week for such hours as Declarant deems appropriate or necessary, (iii) conduct any other activities on Lots to benefit sales efforts, and (iv) use the parking facilities on the Common Area for parking for its employees and invitees.

**Section 2. Use of Accessory Structures.** No tent, shack, barn, utility shed, or other building, other than a dwelling and its required garage, shall, at any time, be erected on a Lot, except temporary buildings, offices, or facilities used by Declarant or its contractors, without the prior written consent of Declarant.

**Section 3. Maintenance of Improvements.** Each Lot Owner shall maintain in good condition and repair all improvements constructed upon such Owner's Lot, including, without limitation, the residential dwelling. No Owner shall change the exterior design or color of the dwelling on such Owner's Lot, including the roof, trim, or other items appurtenant to such dwelling, without the prior written approval of the Board of Trustees of the Association of its Architectural Review Committee, as provided in Article XI hereof.

**Section 4. Storage; Clothes Hanging.** No Lot shall be used for the storage of rubbish. Outside clothes hanging devices on a Lot shall not be permitted.

**Section 5. Lot Upkeep.** Owners shall be responsible for lawn care, landscape maintenance and snow removal with respect to such Owner's Lot.

**Section 6. Nuisances.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or become, an annoyance or nuisance to the neighborhood. No automobile or other vehicle mechanical repairs or like activity shall be conducted on any Lot other than in a garage and concealed from public view.

**Section 7. Lawns.** Each Lot on which there is a completed dwelling shall be maintained in a neat condition by the Owner thereof. In this context, the word "Lot" shall include that portion of the Property from the outside of the structure on the applicable Lot to the adjacent paved road surface. "Neat" shall require, at a minimum, that the lawn be regularly cut and fertilized and that mulched areas be regularly re-mulched and kept weeded so that its appearance is in harmony with the neighborhood. All improved Lots must have grassed lawns. No landscaped mounds or other landscaping improvements that would impede lawn maintenance shall be permitted on a Lot without the prior written consent of the Board of Trustees. In no event shall any Owner alter lawns or landscaping on the Property if such alteration affects drainage on the Property in any material respect, including, without limitation, an alteration which causes seepage or leakage into any dwelling on the Property.

**Section 8. Failure to Maintain.** If an Owner fails to maintain the exterior of the

improvements on such Owner's Lot, either Declarant, or the Association, after giving such Owner at least ten (10) days' written notice, shall be authorized to undertake such maintenance at the Owner's expense. By accepting title to a Lot, each Owner shall be deemed to grant access upon the Owner's Lot and House for such purpose and such entry shall not constitute a trespass. If such maintenance is undertaken by the Association or Declarant, the charge therefor and all costs of enforcement and collection shall be secured by the Lien.

**Section 9. Animals.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or in any Lot, except that a reasonable number of cats, dogs, and other household pets may be kept provided they are kept within the residence and are not kept, bred, or maintained for any commercial purposes, or become a nuisance to the neighborhood. No person owning or in custody of an animal shall allow it to stray or go upon another's Lot or property without the consent of the Owner of such other Lot or property. All animals shall be on a leash when outside the Owner's dwelling.

**Section 10. Signs.** No signs shall be displayed on Lots with the exception of a maximum of one (1) "For Sale" sign not exceeding 36" x 24" in size. The Association may develop uniform sign standards and specifications to which all Owners must adhere. Notwithstanding anything to the contrary herein, Declarant and its assigns shall have the exclusive right to maintain signs of any type and size on Lots which they own and on the Common Area, in connection with the development and sale of Lots.

**Section 11. Vehicles.** No vehicle shall be parked within the Property except on a paved parking surface, driveway, or within a garage. No trucks or vehicles which are primarily used for commercial purposes, other than those temporarily present on business, nor any trailers, may be parked within the Property. Boats, boat trailers, campers, travel trailers, mobile homes, recreational vehicles, and the like, and any vehicles not in operable condition and validly licensed, shall only be permitted to be kept within the Property if such are kept inside a garage and concealed from public view. For the purpose of the foregoing sentence, the term "kept" shall mean present for either a period of six (6) hours or overnight, whichever is less.

**Section 12. Antenna/Satellite Dishes.** To the extent permitted by law, there shall be no rooftop or exterior antennas, satellite dishes, or "earth stations" or similar signal receiving devices installed on any Lot which are visible from any street, dwelling or Common Area. In no event shall any such antenna, satellite dish, earth station or similar signal receiving device exceed twenty-four (24) inches in height, width, length, or diameter, except with the prior written consent of the Association or as otherwise required by law.

#### ARTICLE IX ARCHITECTURAL CONTROL

**Section 1.** The Association shall have the sole and absolute right to determine the style and appearance of the residential dwellings, fences, walls, structures, and other improvements to be constructed on the Lots.

After the initial construction on the Lots and after conveyance by deed of such Lots to persons who are not successor, alternate, or additional Declarants or persons who are engaged in the business of constructing residential dwellings for sale to third parties, no exterior change or modification shall be

made to any residential dwelling constructed on a Lot, nor shall any mailbox, lawn decoration, lamppost, or other improvements be added to a Lot until the plans and specifications showing the nature, kind, shape, height, materials, and color to be used on the exterior, and location of the same, shall have been submitted to and approved in writing by the Board of Trustees of the Association, or by an Architectural Review Committee composed of three (3) or more representatives appointed by the Board (the "ARC"). In the event that either the Board or the ARC fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. No approval shall be given by the Board of Trustees or the ARC pursuant to the provisions of this Article unless it determines, in its sole discretion, that such approval shall (i) assure harmony of external design, materials, and location in relation to surrounding buildings and topography within the Property; (ii) protect and conserve the value and desirability of the Property as a residential community; (iii) be consistent with the provisions of this Declaration; and (iv) conform to or enhance, in the sole opinion of the Board or the ARC, the aesthetic appearance of the Property. Neither the Association, the Board of Trustees, nor any Member of the Board or the ARC, shall have any liability to anyone by reason of any acts or action taken or omitted to be taken in good faith pursuant to this Article.

**Section 2. Design and Construction Criteria:**

Each Living Unit to be constructed on each Lot shall conform with the following design and construction criteria:

(a) The Living Units shall conform to the following type of traditional or transitional architecture: No log cabins, domes, by-levels, A-frames or modern style dwellings shall be permitted.

(b) The Living Units shall conform to the following minimum living space requirements: (1) One story dwelling unit 2400 square feet; and (2) one and one-half or two story dwelling unit 2850 square feet.

(c) Each living unit lot shall be fully landscaped, including lawns and shrubbery within nine (9) months of occupancy.

(d) Front elevations must be a minimum of 75% brick or stone as calculated on the overall surface area.

(e) All garages must be side-entry with a minimum of 2 car capacity; not to exceed 4 cars, the size of which shall be up to the discretion of the Developer.

(f) Any fences put up by owner shall be wooden board on board, or other approved material stained natural color or white, in compliance with all city requirements, subject to the approval of the Developer, or the Board, as the case may be.

IN WITNESS WHEREOF, the undersigned, being Declarant and Additional Declarants named herein, have executed this Declaration on September 4, 1998.

"DECLARANT"

Witnesses:

Rosalie Fekete

Name: ROSALIE FEKETE

Mary D. Franco

Name: MARY D. FRANCO

STATE OF OHIO )

COUNTY OF CUYAHOGA )

PERRY HOMES, INC.  
an Ohio corporation

By: [Signature]

Its: TREASURER

This instrument was acknowledged before me this 4th day of September 1998, by Gene Thomas the Treasurer of Perry Homes, Inc., an Ohio corporation, on behalf of said corporation.

[Signature]  
Notary Public

MARY D. FRANCO

Notary Public, State of Ohio, Cuy. Cty.  
My Commission Expires: Jan. 13, 2001

This instrument prepared by:

Timothy J. Grendell  
Grendell & Targove, L.L.P.  
6060 Rockside Woods Boulevard  
Suite 250  
Independence, Ohio 44131



ADDITIONAL DECLARANTS

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[Gene - attach the other signed pages here]

**EXHIBIT A**

[Legal Description of the Property]

## Description of the Windsor Woods Subdivision

Situated in the City of Broadview Heights, County of Cuyahoga and State of Ohio, and known as being part of Original Royalton Township Sections Nos. 21 and 22 and bounded and described as follows:

Beginning on the Southeasterly line of Wallings Road, 60 feet wide, at the Northwestern corner of a parcel of land conveyed to John Zane and Tillie Zane, by deed recorded in Volume 8453, Page 605 of Cuyahoga County Records of Deeds;

Thence S.  $0^{\circ} 19' 00''$  W., along the Westerly line of land so conveyed to John and Tillie Zane, a distance of 132.55 feet to the principal place of beginning;

Thence S.  $89^{\circ} 41' 00''$  E., a distance of 179.68 feet;

Thence N.  $63^{\circ} 08' 00''$  E., a distance of 705.00 feet;

Thence N.  $26^{\circ} 52' 00''$  W., along the Southwesterly line of a proposed street, 60 feet wide, a distance of 170.00 feet to a point of curvature of a curved turnout;

Thence Northwesterly, along said curved turnout, a distance of 47.12 feet on the arc of a circle deflecting to the left, whose radius is 30.00 feet and whose chord bears N.  $71^{\circ} 52' 00''$  W.; a distance of 42.43 feet to the Southeasterly line of Wallings Road;

Thence N.  $63^{\circ} 08' 00''$  E., along the Southeasterly line of Wallings Road, a distance of 120.00 feet to a point distant S.  $63^{\circ} 08' 00''$  W., 346.00 feet from the Easterly line of a parcel of land conveyed to The Crescent Realty Company, by deed recorded in Volume 3473, Page 389 of Cuyahoga County Records of Deeds;

Thence Southwesterly, along a curved turnout, a distance of 47.12 feet on the arc of a circle deflecting to the left, whose radius is 30.00 feet and whose chord bears S.  $18^{\circ} 08' 00''$  W., a distance of 42.43 feet;

Thence S.  $26^{\circ} 52' 00''$  E., along the Northeasterly line of a proposed street, 60 feet wide, a distance of 140.00 feet;

Thence N.  $63^{\circ} 08' 00''$  E. parallel with the Southeasterly line of Wallings Road, a distance of 125.00 feet;

Thence S.  $85^{\circ} 54' 10''$  E., a distance of 144.45 feet to a point in the East line of land conveyed to The Crescent Realty Company as aforesaid;

Thence S.  $0^{\circ} 37' 30''$  W., a distance of 1635.48 feet;

Thence S.  $0^{\circ} 35' 30''$  W., a distance of 804.20 feet;

Thence N.  $89^{\circ} 49' 15''$  W., a distance of 1089.15 feet;

Thence N.  $0^{\circ} 19' 00''$  E., a distance of 2018.52 feet to the principal place of beginning;

be the same more or less, but subject to all legal highways

EXHIBIT B

[Common Areas]