

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF OWNERSHIP**

THIS DECLARATION, made this 27th day of April, 1979, by The Drees Company, a Kentucky Corporation, hereinafter sometimes called the "Declarant".

**WITNESEITH:**

WHEREAS, the Declarant is the owner of the real property described in Article II hereof and desires to create community facilities for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common areas and community facilities; and to this end, desires to subject the real property described in Article II hereof to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and the subsequent owners thereof: and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the common areas and community facilities, administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed the "Wynds at Oakbrook Home Owners Association, Inc.", as a non-profit Kentucky corporation for the purpose of carrying out the powers and duties aforesaid;

NOW, THEREFORE, the Declarant hereby declares that all of the properties described in Article II shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I**

**Section 1. Definitions.** The following words when used in this Declaration shall have the following meanings:

(a) "Association" shall mean and refer to the Wynds at Oakbrook Homeowners Association, Inc., and its successors and assigns.

(b) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(c) "Properties" shall mean and refer to that certain real property hereinafter described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat or map of the property or recorded resubdivision thereof with the exception of the common areas or community facilities.

(e) "Common Areas" or "Community Facilities" shall mean and refer to all real property owned by the Association for the benefit, use and enjoyment of its members, including arterial streets.

(f) "Living Unit" shall mean and refer to any portion of a building situated upon an individual lot designed and intended for use and occupancy as a residence by single family.

(g) "Multi-family Structure" shall mean and refer to any building containing two or more living units under one roof, even though such living units may be located on more than one lot.

(h) "Member" shall mean and refer to all those owners who are members of the Association as provided in Article IV hereof.

(i) "Developer" shall mean and refer to the Declarant and its assigns if such assigns should acquire more than one developed lot from the Declarant for the purpose of resale to an Owner or for the purpose of constructing improvements thereon for resale to an Owner.

(j) "Declarant" shall mean and refer to The Drees Company, a Kentucky corporation, and its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

(k) "Section" shall mean and refer to all of the land area encompassing a lot or group of lots as set forth on a recorded plat intended by the Declarant for use for the same housing or housing construction type (i.e. brick, cedar shake, cement) contained in a specific stage of development and encompassing the street, common areas and parking areas owned by the Association for the primary use of such group of lots.

## ARTICLE II

**Section 1. Property Subject to Declaration.** The real property which is, and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used occupied and improved subject to this Declaration is located in the county of Boone, Commonwealth of Kentucky, and is more particularly described on "EXHIBIT A" attached hereto and by this reference made a part hereof.

**Section 2. Additions.** For a period of ten (10) years from and after the date hereof, additional property may be annexed to the above described property by the Declarant without the assent of the members of the Association, if any. Thereafter, such additional property may be annexed only with the consent of fifty-one percent (51%) of each class of members of the Association. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of

the above described property. The scheme of the within Covenants and Restrictions shall not, however, be extended to include any such additional property unless and until the same is annexed to the real property described on "Exhibit A", as hereinafter provided. Any annexations made pursuant to this Article, or otherwise, shall be made by recording a supplement to this Declaration of Covenants and Restrictions in the real estate records of the Clerk of the County of Boone, Kentucky which supplementary declaration shall extend the scheme of the within covenants and restrictions to such annexed property. Such Supplementary Declaration may contain such complementary additions and modifications to the covenants and restrictions set forth in the within Declaration as may be necessary to reflect the different character of use, if any, of such annexed property.

### ARTICLE III

**Section 1. Member's Right of Enjoyment.** Every member shall have a right and easement of enjoyment in and to the Common Areas and Community Facilities and such easement shall be appurtenant to and shall pass with the title to every lot, subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and Community Facilities and in aid thereof to mortgage said property. The Association shall not mortgage the Common Areas or Community Facilities except by resolution approved by sixty-six and two-thirds (66-2/3%) percent of the total number of votes held by Class A members and sixty-six and two-thirds (66-2/3%) percent of the total number of votes held by Class B members.

(b) The right of the Association to levy reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas by the member of the Association and their guests; and

(c) The right of the Association to take such steps as are reasonably necessary to protect the above described property against mortgage default and/or foreclosure; and

(d) The right of the Association to limit the number of guests of members; and

(e) The right of the Association to suspend the voting rights and the rights to use of the Common Areas and Community Facilities for any period during which any assessment remains unpaid and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations; provided that the rights set forth in subparagraph (g) below shall not be suspended; and

(f) The right of the Association to dedicated or transfer all or any part of the Common Areas or Community Facilities to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration, provided, however, that no such dedication or transfer shall be effective except upon resolution approved by sixty-six and two-thirds (66-2/3%) percent of the total number of votes held by Class A members and sixty-six and two-thirds (66-2/3%) percent of the total number of votes held by Class B members.

(g) The rights of the fee owners of lots to a perpetual easement over any Common Area or Community Facility for such portions of their Living Unit that may overhang said Common Areas or Community Facilities, and for necessary pedestrian and automotive ingress and egress to and from any such Living Unit over said Common Areas and Community Facilities, which rights are hereby expressly reserved for the benefit of the individual lots.

(h) The right of individual owners to the exclusive use of parking spaces as provided in this Article.

(i) The right of the Association to purchase fire, lightning and extended coverage or similar insurance on any Multi-family structure comprised of individual living units.

**Section 2. Parking Rights.** Ownership of each lot shall entitle the owner or owners thereof to the use of not more than one automobile parking space for each lot, which shall be as near and convenient to the lot as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association shall permanently assign the vehicle parking spaces for each lot.

**Section 3. Delegation of Use.** Any owner may delegate, in accordance with the applicable By-Laws of the Association, his right of enjoyment in and use of the Common Areas and Community Facilities to the members of his family, guests, and his tenants or contract purchasers who reside on the property, provided that in the instance of a delegation to tenants or contract purchasers who reside in the property, the Owner's right of enjoyment in and use of the Common Areas and Community Facilities and that of his family and guests shall be suspended unless the Owner shall likewise reside on the property, subject however to the provisions of Section 4 below.

**Section 4. Rights Not Subject to Suspension.** Notwithstanding anything herein contained to the contrary, the rights and easements created in paragraph (g) of Section 1 of this Article III shall not be suspended by the Association for any reason.

## ARTICLE IV

**Voting Members.** The Association shall have two (2) classes of voting members.

(a) With the exception of a Developer until Class B membership has lapsed and becomes a nullity, every person, group of persons or entity who is a record owner of a fee interest in any lot which is or becomes subject by covenants of record to assessment by the Association shall be a Class A member of the Association.

(b) Class B member shall be the Declarant, which shall be entitled to three votes for each lot in which any Developer holds the interest otherwise required for Class A membership multiplied by the number of living units located or proposed by the Declarant to be located on such lot, provided, however, that each Class B membership shall lapse and become a nullity ten years from and after the date hereof.

At such time as Class B membership shall lapse and become a nullity, any Developer which, for any lot, holds an interest therein otherwise required for Class A membership, shall be deemed a Class A member with reference to such lot or lots and entitled to the voting and all other rights of such Class A member. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership. If more than one person, group of persons, or entity is the record owner of a fee interest in any lot, then the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

## **ARTICLE V**

**Section 1. Covenant for Assessments.** The Declarant for each lot owned by it (and as hereinafter limited by the provisions of this Declaration) and each person, group of persons, or entity who becomes an Owner of a lot by acceptance of deed therefore, whether or not it shall be so expressed in any such deed or other conveyance shall be deemed to Covenant and agree to pay to the Association: (1) annual assessments; (2) individual assessments; (3) special assessments; such assessments to be fixed, established and collected from time to time as hereinafter provided. All assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorneys fees) as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the person, group of persons, or entity who was the owner of such property and lot at the time when the assessment fell due.

**Section 2. Annual Assessments, Purposes.** The Annual Assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environmental concept of the Property and preserving the esthetic and scenic qualities of the development.

To carry out these purposes, an Annual General Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion and maintenance of the properties, services and facilities related to the use and enjoyment of the Common Areas and Community Facilities, including, but not limited to, the payment of taxes and insurance and for repairs, replacements and additions, and for the cost of labor, equipment, and materials, management and supervision, and including the maintenance and repair of streets, and, in the discretion of the Association, including any entrance roads or adjoining roads or areas which may affect the recreation, scenic enjoyment health, welfare and safety of the residents even though not owned by the Association.

To further carry out these purposes, an Annual Maintenance Assessment shall be levied by the Association to provide for current use, and to provide an adequate reserve fund for future use, for the purpose of:

- (a) Providing fire protection and waste collection to all lots owned by all members;

(b) Providing for grass cutting (excluding trimming) landscaping maintenance and snow removal, excepting in enclosed or semi-enclosed patio areas;

(c) Providing exterior maintenance of the living units as following: (1) paint, caulk, repair and replace roofs, roof vents, chimneys, gutters, downspouts, light fixtures, wood balconies, and railings, stoops, patios and exterior wall surfaces, (ii) paint and make surface repairs on exterior surfaces of doors, and window frames, (iii) repair and replace streets, driveways and walkways, (iv) perform other exterior maintenance as from time to time is determined by the Board of Directors of the Association to be reasonably necessary to maintain the Living Units consistent with funds available to the Association, such additional maintenance to be exercised uniformly for the benefit of all Living Units in the "Section" in which it is being performed.

Unless otherwise determined by the Board of Directors under subparagraph (iv) above, exterior maintenance shall not include: (i) structural and/or waterproofing, repair, replacement or care of basement walls and floor, (ii) repair, replacement or care of mechanical equipment and/or its pads and foundations, light bulbs, electric outlets, water sillcocks, window and door glass or screen, (iii) repair, replacement or care of operating parts of doors and windows, (iv) cleaning or replacement of doors and windows, (v) general cleaning, or debris removal, (vi) any care whatsoever to improvements or additions made other than by the original Developer in constructing the Living unit.

(d) Providing fire, lightning and extended coverage or similar insurance on a blanket basis in an amount of not less than eighty (80%) percent of the replacement cost thereof on all Living Units, including physical improvements and betterments, but not on the contents thereof or personal liability or living expense insurance. Said insurance shall be payable to the Association, the Owners and their mortgages, as their interest may appear and the proceeds from which shall be used to restore or replace any Living Unit damaged or destroyed by any peril covered by said insurance. Each initial Owner, other than a Developer, shall pay to the Association the cost of insurance for such lot for a twelve (12) month period. Owners shall notify Association of all improvements made to premises so that adequate insurance may be maintained. The "deductible" portion of any insured claim payable by any other than the insurance comp shall be paid by the Owner(s) of the Living Unit damaged or destroyed. By resolution approved by sixty-six and two-thirds (66-2/3%) percent of the total number of votes held by Class A members and sixty-six and two-third (66-2/3%) percent of the total number of votes held by Class B members, this provision for blanket insurance may be amended or rescinded;

(e) Providing and paying for share of administrative and management expenses attributable to carrying out purposes of Annual Maintenance Assessment; and

(f) Providing such additional matters, consistent with the general purposes of the Annual Assessment as may be approved in writing by not less than two-thirds vote of members of the Section (as heretofore defined) to be affected thereby.

**Section 3. Annual General Assessments, Initial Amount.** Until January 1, 1985 the maximum annual general assessment for each Class A membership for general purposes provided in Section 2 of this Article V shall not exceed Three Hundred (300.00) per Living Unit.

The assessment may be billed in advance on a monthly, quarterly or annual basis. The Board of Directors may fix the annual assessment for any amount not in excess of the maximum hereinabove provided for. The assessment shall be fixed at a uniform rate based upon Living Units.

**Section 4. Annual General Assessment, Maximum Increase.**

(a) From and after January 1, 1985 the amount of the maximum general assessment set out in Article V, Section 3, above, for all membership will increase automatically five (5%) percent per year in addition to the maximum sum allowed for the previous year (whether changed or not), unless prior to the levying of such new assessment year, the Board of Directors vote to reduce the assessment below that allowed to be changed in such year. As used herein, the term, "allowed to be changed", shall mean the sum set out in Article V, Section 3, above, increased and compounded five (5%) percent per year beginning with the year immediately following the conveyance of the first lot to an Owner.

(b) From and after January 1, 1985 the maximum annual general assessment for all memberships may be increased above that established by the preceding paragraph, by a vote of members as hereinafter provided, for the next succeeding year and at the end of such year for each succeeding year. Any change made pursuant to this paragraph shall have the assent of fifty-one (51%) percent of the total number of votes held by Class A members and fifty-one (51%) percent of the total number of votes held by Class B members.

(c) The assessment may be billed in advance on a monthly, quarterly, or annual basis. The Board of Directors may fix the annual assessment at any amount not in excess of the maximum thereinabove provided for. The assessment shall be fixed at a uniform rate based upon Living Units.

**Section 5. Annual Maintenance Assessment.**

(a) The Annual Maintenance Assessment shall be levied on the members in such amount as is determined by the proportionate share for each owner of a lot within a Section (as heretofore defined) as may be necessary, in the determination of the Board of Directors by the Association, to carry out the purposes of the Annual Maintenance Assessment. Each section shall be computed individually and a record of funds collected from the respective Sections shall be separately maintained. This assessment may be billed on a monthly, quarterly or annual basis. The assessment shall be fixed at a uniform rate within the Section based upon lots with the sections, but assessment amounts may vary from Section to Section. All monies received by the Association as the Maintenance Assessment shall be held in trust by the Association for the benefit of the members in each Section to be used solely for the purposes as herein provided. Maintenance Assessments and any income derived there from shall be held as a separate fund and shall not be commingled with other assets coming under the control of the Association.

(b) Negligence or Willful Neglect. In the event that the need for maintenance or repair is caused through the willful or negligent act of the owner, his family, tenants, guests or invitees, the cost of such maintenance or repairs (including costs incurred by the Association for attorneys fees,

court costs, or other expenses incurred to obtain access to the subject lot or unit) shall be added to and become a part of the assessment against the individual lot upon which the maintenance or repairs are performed.

(c) Access to Lot. For the purpose solely of performing the exterior maintenance required or authorized herein, the Association, through its duly authorized agent or employees, or subcontractors, shall have the right, after reasonable notice to the owner, to enter upon any lot or the exterior of any living unit at reasonable hours on any day. No notice shall be required for grass cutting.

(d) Annual Maintenance Assessment for Developer's Lots. With reference to the application of the Section 5 Annual Maintenance Assessment, and subject to Section 9 of this Article, lots owned by a developer shall be considered as part of Class A, provided that the Declarant shall retain its three votes with reference to each such lot as provided in Article IV, paragraph (b).

**Section 6. Individual Assessments.** In the event an owner of any lot in the properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, and such maintenance is not that to be provided by the Association under Section 2 or 5 above for which assessments are provided, then the Association, after approval by two-thirds (66-2/3%) votes of all members of the Board shall have the right through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance and repair (including charges incurred by the Association in gaining access to the subject lot or unit, including court costs and reasonable attorneys fees) shall be added to and become part of the total assessment to which such lot is subject.

**Section 7. Special Assessments.** In addition to the annual assessments authorized by this Article, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement located upon the Common Areas which cost has not otherwise been provided for in full as part of the annual General Assessment, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of fifty-one (51%) percent of the total number of votes held by Class A members and fifty-one (51%) percent of the total number of votes held by Class B members of the Association. Any special assessment levied by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate based upon Living Units. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the members to be used solely for the purpose of the Special Assessments and any income derived therefrom shall be held as a separate fund and shall not be commingled with other assets coming under the control of the Association. The assessment may be billed in advance on a monthly, quarterly or annual basis.

**Section 8. Commencement of Assessments.** The Annual assessments shall commence on the first day of the month following the conveyance to the Association of the Common Areas. The first assessment for any such membership shall be made for the balance of the calendar year

and shall become due and payable and a lien on the date aforesaid. The Board may from time to time determine the manner and schedule of payments.

It shall be the duty of the Board of Directors of the Association to periodically fix the amount of the assessment against each lot for such assessment period and the Board of Directors shall make reasonable efforts to fix the amount of the assessment against each lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at the time, prepare a roster of the lots and assessments applicable thereto which shall be kept in the office of the Association and shall be opened to inspection by any owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the Owner of any lot subject thereto. Annual assessments subsequent to the first annual assessment shall become a lien on January 1 of each year; individual and special assessments shall become a lien at the time designated by the Board of Directors. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice thereof.

**Section 9. Assessment of Developer.** Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Developer, while there exists a Class B member, shall be required to pay an assessment for any recorded, unsettled lot in which it has the interest otherwise required for Class A membership only in an amount equal to twenty-five (25%) percent of the Annual Assessments which the Association levies for purposes set forth in Section 2 of Article V. The provisions of this Section 9 shall not apply to the assessment of any living unit held by a Developer for rental purposes that is or has been occupied as a living unit; in which event the Developer shall be required to pay the full amount of the assessments levied thereon.

**Section 10. Assessment Certificates.** The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for assessment a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of said assessment; i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A charge not to exceed Ten (\$10.00) Dollars may be levied in advance by the Association for each certificate so delivered.

**Section 11. Non-Payment of Assessment.** Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them with the consent of the Association.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest at the rate of eight percentum (8%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, in either of which events interest, costs and reasonable attorneys' fees shall be added to the amount of each assessment. No Owner shall waive or otherwise escape liability for the

assessments herein provided for by non-use of the Common Areas or Community Facilities or abandonment of his lot or living unit.

In addition to the eight percentum (8%) per annum interest provided above, the Board of Directors, in its discretion, may establish a reasonable late charge to be paid in event of any assessment that is not paid within thirty (30) days after due date, provided that such late charge shall not exceed a sum equal to ten (10% percent of the amount of the assessment which is delinquent by thirty (30) days.

**Section 12. Subordination of Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, any tax lien foreclosure, land contract cancellation or foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer.

## ARTICLE VI

**Section 1. Architectural Control Committee.** Except for original construction or as otherwise in these covenants provided, no building, fence wall or other structure shall be commenced, erected, or maintained upon any lot or property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structure and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) members appointed by the Board of Directors. Requests for approval shall be made in writing by the Owner to the Board of Directors of the Association, or to the architectural committee if one exists.

**Section 2. Prohibited Uses and Nuisances.** Except for the activities of the Developer during original construction:

(a) No noxious or offensive trade or activity shall be carried on upon any lot or within any Dwelling situate upon the Property, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners of the Property.

(b) The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number shall be and is hereby prohibited on any lot or within any Dwelling situate upon the Property, except that this shall not prohibit the keeping of dogs, cats and/or caged birds as domestic pets provided they are not kept, bred or maintained for commercial purposes. Dogs and cats must be kept within the confines of the Owner's living unit, except when being held on hand leash by person attending animal. Owners and/or harborers of dogs and cats shall be liable for any damage caused by such animals. Subject only to the provisions of Article III, Section 4, the Association acting through its Board of Directors may suspend for reasonable length of time the voting rights and the rights to use the Common Areas and Community Facilities, of any person who violates this subparagraph (b)

(c) No burning of any trash and no accumulation or storage of liter, new or used building materials, or trash of any kind shall be permitted on any lot.

(d) Except as hereinelsewhere provided, no junk vehicle, commercial vehicle, trailer, truck of more than one ton, structure of a temporary character, trailer, tent, shack, barn or other outbuilding, shall be kept or used upon the lots or common areas; (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of its Board of Directors, provide and maintain a suitable area designated for the parking of such vehicles or the like. Notwithstanding the provisions hereof, Developers and their subcontractor may, for the purpose of business use in connection with the development of the properties or construction of living units thereon, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction

(e) Trash and garbage containers shall not be permitted to remain outside any living unit except on days of trash collection.

(f) In order to facilitate the free movement of passing vehicles, no automobiles belonging to the residents shall be parked on the paved portion of any joint driveway or streets, public or private, except during bona fide temporary emergencies.

(g) No sound hardwood trees or shrubbery shall be removed from any lot or Common Areas without written approval of the Association acting through its Board of Directors or duly appointed committee, provided that this provision shall not apply to any lots owned by the Declarant or any Developer prior to the completion of all living unit(s) on the lot and sale thereof or use as rental units by the Declarant or Developer

(h) No signs of any character shall be erected, posted, attached or displayed upon, or on any lot or Living Unit, excepting street and identification signs installed by the Association or the Declarant and excepting one (1) temporary real estate sign not exceeding five (5) square feet in area erected upon any lot advertising same upon the market for sale or rent. This resolution shall not apply to any Developer as long as there exists Class B member, or to sign advertising or marketing Wynds At Oakbrook Subdivision or any units therein.

(i) No structure, planting or other material other than driveways, or sidewalks shall be placed or permitted to remain upon any lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels.

(j) No outside television or radio aerial or antenna, or other aerial or antenna, for reception or transmission, shall be maintained on any Lot or Living Units.

(k) There shall be no violation of any rules for the use of the Common Areas or Community Facilities which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt or amend such rules.

(l) Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, e.g., family room(s), bedroom(s), recreation room(s), etc.

(m) The covenants and restrictions set forth above in this Section 2 may be altered, amended or rescinded, in whole or in part by resolution approved by sixty-six and two-thirds (66-2/3%) percent of the total number of votes held by Class A members and sixty-six and two-thirds (66-2/3%) percent of the total number of votes held by Class B members.

**Section 3. Residential Use.** All of the units shall be used for private residential purposes exclusively except that a Developer may use living units as models and as offices in connection with the marketing of sale of lots or living units in Wynds at Oakbrook Subdivision.

**Section 4. Right of Association to Remove or Correct Violations of this Article.** The Association may, in the interest of the general welfare of all the Owners, and after reasonable notice to the Owner, enter upon any lot or the exterior of any Dwelling at reasonable hours on any day except Sunday for the purpose of removing or correcting any violation or breach of any attempted violation of any of the covenants and restrictions contained in this Article, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided, however, that no such action shall be taken without a resolution of the Board of Directors of the Association or by an architectural control committee composed of three (3) or more members appointed by the Board . All charges incurred by the Association in obtaining access to any lot or property covered under this Section and any charges incurred by the Association in correcting the violation hereunder, (including court costs and reasonable attorney's fees) shall constitute a charge against the subject property and a personal obligation of the Owner thereof, and the Association shall have a lien upon the property and lot for such expenses, and including costs of collection of said lien amount, which lien shall be subordinate first mortgages as provided in Article V, Section 12.

**Section 5. Developer's Reservation of Entry Rights.** The Declarant for itself and any Developer reserves the right for a period of two (2) years after sale of a lot by the Declarant or Developer to an Owner to enter upon the Lot for purposes of correcting grade and drainage patterns for the benefit of the entire Properties, provided that the lot shall be restored with any pavement grass or sod which shall have been removed.

**Section 6. Declarant's & Association's Right to Grant Easements.** Notwithstanding the provisions of Article III, Section 1 (f) or other provisions of this Declaration, as long as there exists Class B Membership, the Declarant, and thereafter the Association is authorized without consent of the members to grant across, through or under any Lot or Common Area any utility easement, including Television Cable easement, deemed by the granting party to be necessary or convenient in the development or enjoyment of the Properties, provided that no easement shall be granted across, through or under any Living Unit or Building which materially restricts ingress or egress to such Living Unit or Building which materially restricts ingress or egress to such Living Unit or Building.

## ARTICLE VII

**Section 1. Joint Driveways or Walkway.** Any driveway or walkway which is built or installed as part of the original construction upon the properties and which is situated on the dividing line between lots or partly on one lot and partly on another lot or other lots, shall constitute a joint driveway or walkway for the equal and common use and benefit of the Owners of any lots or other portions of the properties which it is reasonably designed to serve, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding joint driveways or walkways and of liability of property damage due to negligent or willful acts or omissions regarding the same shall apply thereto.

**Section 2. Repair and Maintenance.** The cost of reasonable repair and maintenance of any joint driveways or walkway shall be shared by the Owners who make use of the same in equal amounts, unless such repair and maintenance is provided by the Association through assessment.

**Section 3. Damage or Destruction.** Unless provided by the Association through assessment, in the event any joint driveway or walkway is destroyed or damaged, any Owner who has used the same may restore it, and if the other Owners thereafter make use of the same, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

**Section 4. Easement.** There shall be a perpetual and nonexclusive easement in, through and over any such joint driveway or walkway reserved to the Owners of any lot or lots upon which the same has been built or installed or which the same has reasonably been designed to serve and no person shall in any way interfere with the free and unobstructed use thereof by said Owner.

**Section 5. Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 6. Rights not Subject to Suspension.** The rights and easements created in this Article VII, Sections 1 through 5 inclusive shall not be suspended by the Association for any reason.

## ARTICLE VIII

**Section 1. Party Walls.** Each wall which is built as part of the original construction of the dwellings upon the Property and placed on the dividing line between lots or dwellings shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

**Section 2. Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

**Section 3. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or wilful acts or omissions. Unless otherwise agreed by Owners of all Living Units in a Multi-family Structure damaged or destroyed by fire or other casualty such Structure shall be rebuilt and all proceeds of insurance available therefore shall be used to restore the Structure.

**Section 4. Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 5. Right of Entry.** For purposes of making inspections and repairs under this Article VIII, an Owner, his agents or contractors shall have the right to enter upon the premises of the other owners of a party all upon the giving of permission.

**Section 6. Easements.** In the event that a Multi-family Structure is erected on more than one lot, each such lot shall have the benefit of mutual easements across the other lots upon which said Structure is located and through the Structure, and each such lot shall be subject to easements across it and through the Structure erected thereon for the benefit of the other lots upon which said Structure is located, for the maintenance, continuation and upkeep of utility wires and lien serving the individual lots and living units located thereon. The owner(s) of each Lot shall maintain, repair and replace all wires and lines serving such lot and living unit, and for such purpose may enter upon the other lots or living units, but shall at all times be responsible for repairing and restoring to its former condition any lot or living unit which is damaged or disturbed by reason of the performance of any maintenance, repair or replacement of such wires and lines, or by reason of the exercise of any right of easement, ingress and egress herein provided. The cost of repair and maintenance of wires and lines used jointly for the benefit of two or more lots shall be shared by the Owners thereof using same in the same manner and in accordance with the provisions for repair, maintenance, damage or destruction of joint driveways and walkways in Article VII.

**Section 7. Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 8. Control of Utility Lines.** Notwithstanding provisions otherwise contained herein, all of the following utility lines designed to serve more than one living unit shall be under the exclusive control of and shall be maintained by the Association (subject to the rights and duties of the utility company providing the service).

- (a) Electric supply lines extending from the service of supply delivered by the utility company to the meter base location for the living unit.
- (b) Sanitary sewer lines extending from the connector sewer line to the point at or near the living unit where common usage by more than one living unit stops.

**Section 9. Rights Not Subject to Suspension.** The rights and easements created in this Article VIII, Sections 1 through 8 inclusive shall not be suspended by the Association for any reason.

## **ARTICLE IX**

**Section 1. Duration and Amendment.** The covenants and conditions herein contained in this Declaration shall run with the land perpetually subject to amendment as hereafter set out. This Declaration may be amended by an instrument signed by seventy-five (75%) percent of the holders of the total of Class A votes and seventy-five (75%) percent of the holders of the total of Class B votes. No such amendment shall be effective with respect to rights described in Article III, Section 1, paragraph (g), Article VII, and Article VIII unless approved by the then Owners of all lots.

**Section 2. Enforcement.** Any Owner or the Association may enforce these covenants and restrictions. Enforcement shall be by any proceeding at law or inequity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, and against the land to enforce any lien created by these covenants; and the failure or forbearance by the Association or 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. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach of any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or by recovery of damages. All charges incurred by the Association in enforcing these covenants and restrictions (including court costs and reasonable attorneys' fees) shall constitute a charge against the person or persons violation or attempting to violate the covenant or restriction, and such charge shall constitute a lien against the lot or property of such person or persons, subject to subordination to first mortgages as provided in Article V, Section 12.

**Section 3. Notices.** Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postpaid, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing.

**Section 4. No Dedication to Public Use.** Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any common areas or community facilities by any public or municipal agency, authority, or utility.

**Section 5. Association and Director Responsibility.** In carrying out the provisions of this Declaration, and in the performance of all of the rights, duties and obligations, covenants and conditions, hereunder, specifically including but not limited to the protection, maintenance and

upkeep of Common Areas and Community Facilities and of Living Units, the Association cite reasonable care only, and shall in no way be deemed absolutely liable, or be deemed insurers.

**Section 6. Severability.** Invalidation of any of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

## ARTICLE X

### **Federal Home Loan Mortgage Corporation Provisions.**

**Section 1.** The following provisions are included herein for the benefit of the holders of first mortgages on any lot within that portion of the Wynds at Oakbrook Subdivision which is subject to the provisions of this Declaration (PUD), in order to permit compliance with the requirements of Federal Home Loan Mortgage Corporation (FHLMC) as a condition to the purchase of loans on living units in the PUD. The covenants and provisions hereinafter set forth shall run in favor only of the first mortgage holders, and the provisions hereinafter set forth may be altered, amended, revised or rescinded by actions of the Board of Directors of the Association, without approval of the members of the Association, but only without such approval to the extent that such alteration amendment revision or rescission is necessary to comply with the requirements of FHLMC.

**Section 2.** It is provided as follows:

A. Unless at least two-thirds (66-2/3%) of the first mortgages (based upon one vote for each first mortgage owned) or owners (other than the Declarant or Developer) of the individual units in the PUD have given their prior written approval, the Association shall not be entitled to:

(i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common property owned, directly or indirectly, by such homeowners association for the benefit of the units in the PUD (the granting of easements for public utilities or for other public purposes consistent with the intended use of such common property by the Association shall not be deemed a transfer within the meaning of this clause);

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against a PUD unit owner;

(iii) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of units, the exterior maintenance of units, the maintenance of the common property party walks or common fences and driveways, or the upkeep of lawns and plantings in the PUD;

(iv) fail to maintain fire and extended coverage on insurable PUD common property on a current replacement cost basis in the an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);

(v) use hazard insurance proceeds for losses to any PUD common property for other than the repair, replacement or reconstruction of such common property.

B. First mortgages of PUD units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any PUD common property and may

pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property and first mortgagees making such payments shall be owed immediate reimbursement therefore from the PUD shall be entitled to such reimbursement.

C. A first mortgagee, upon request, is entitled to written notification from the homeowners association of any default in the performance by the individual PUD unit Borrower of any obligation under the PUD constituent documents which is not cured within sixty (60) days.

IN WITNESS WHEREOF, the said The Drees Company, a Kentucky corporation by its duly authorized officers, has hereunto set its signature on the day and year first written above.

THE DREES COMPANY

By: \_\_\_\_\_  
COMMONWEALTH OF KENTUCKY  
COUNTY OF KENTON

I hereby certify that on the 27th day of April, 1979, before me a Notary Public in and for the county and state aforesaid, personally appeared who executed the foregoing and acknowledged the same to be their act and deed, and the act and deed of The Drees Company.

In witness whereof, I hereunto set my hand and notarial seal on the day and year written above.

\_\_\_\_\_  
Notary Public  
Kenton County, Kentucky  
My commission expires: 9/14/82