

**DECLARATION OF RESTRICTIONS**

This Declaration of Restrictions is entered into by PPG Industries Ohio, Inc., herein called "Grantor," this 17<sup>th</sup> day of December, 1999 at Delaware, State of Ohio.

Grantor hereby imposes restrictions on the following real estate ("Area," more particularly described on Attachments A and B hereto.

1. In consideration for the Director of Ohio EPA's October 27, 1999 approval of Grantor's Hazardous Waste Closure Plan for the Area, which approval is attached hereto as Exhibit 1, Grantor agreed to impose certain restrictions on the Area and comply with the covenants, terms and conditions related thereto.
2. Pursuant to this agreement, the Grantor hereby imposes the following restrictions on the Area:

The Area shall not be used for residential activities, but may be used for industrial activities. The term "residential activities" shall include, but not be limited to, the following:

- a) Single and multi-family dwelling and rental units;
- b) Day care centers and preschools;
- c) Hotels and motels;
- d) Educational (except as a part of industrial activities within the Area) and religious facilities;
- e) Restaurants and other food and beverage services (except as a part of industrial activities within the Area);
- f) Entertainment and recreational facilities (except as a part of industrial activities within the Area);
- g) Hospitals and other extended care medical facilities; and
- h) Transient or other residential facilities.

The term "industrial activities" shall include manufacturing, processing operations and office and warehouse use, including but not limited to production, storage and sales of durable goods and other non-food chain products and parking/driveway use.

3. The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the Grantor and the State of Ohio and their respective personal representatives, heirs, successors, assigns and transferees and shall continue as a servitude running in perpetuity with the Area, subject to termination or modification as described below. The term "Grantor,"

wherever used herein, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, assigns and transferees.

4. The Grantor may request written approval for a use of the Area which is not specifically permitted by the restriction set forth above in paragraph 2 by submitting a written petition, via certified mail, to the Director of Ohio EPA for termination or modification of the restriction imposed by this Declaration. Any such request which constitutes a change in the specific prohibition may only be granted by the Director of Ohio EPA, in his sole discretion, based on the standards described below. In such event, the petition for modification or termination shall state the specific provision(s) sought to be modified or terminated and shall further include evidence demonstrating:
  - a) The Area meets Ohio's risk-based closure performance standard in effect at the time of such petition for a residential (or equivalent) land-use scenario; or
  - b) The Area has been sample tested and compared with background samples taken from land surrounding the Area which has been unaffected by past treatment, storage, or disposal of hazardous waste, and such data shows that current conditions present at the Area are not statistically greater than background conditions.
5. The petition for termination or modification will be considered by the Director of Ohio EPA only when it presents new and relevant information not previously considered prior to the imposition of the restriction imposed by this Declaration. The Director of Ohio EPA will issue a final determination based upon the criteria set forth in paragraph 4 above.
6. The Grantor shall be considered in violation of the Hazardous Waste Closure Plan dated June 11, 1999 if the foregoing use restriction is violated or breached. For violation or breach of the foregoing use restriction, the Director of Ohio EPA shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to obtain injunctive relief in order to prevent violation or breach of the foregoing use restriction. Failure to timely enforce the foregoing covenant and use restriction by any party shall not bar subsequent enforcement by such party and shall in no manner be deemed a waiver.

In addition, the Director of Ohio EPA may require the submittal of an amended hazardous waste closure plan upon notice that the Grantor has violated or breached the foregoing use restriction. This amended closure plan shall be submitted within thirty (30) days after receiving written notice from Ohio EPA. Any such plan submitted shall ensure that the Area is further remediated to meet one or more of the cleanup standards set forth in paragraph 4 above.

7. Grantor agrees to include in any instrument conveying any interest in any portion of the Area, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

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**THE INTEREST CONVEYED HEREBY IS SUBJECT TO A  
DECLARATION OF RESTRICTIONS, DATED \_\_\_\_\_, 19\_\_\_\_,  
RECORDED IN THE PUBLIC LAND RECORDS ON \_\_\_\_\_, 19\_\_\_\_, IN  
BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, IN FAVOR OF, AND ENFORCEABLE BY,  
THE STATE OF OHIO.**

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide the Director of Ohio EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

8. Grantor hereby covenants to and with the State of Ohio that the Grantor is lawfully seized in fee simple of the Area, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Area is free and clear of encumbrances subject to and except for, any restrictions, reservations, rights, rights of way or easements of record or, if not of record, visually apparent on the Area, and that the Grantor will forever warrant and defend the title thereto and the quiet possession thereof.

IN WITNESS WHEREOF, Grantor has caused this Declaration of Restrictions to be signed in its name as of the day and year first above written.

Witnesses:

Ronald G. Schaffhausen  
Ronald G. Schaffhausen

Jim Krumpelmaier  
Jim Krumpelmaier

PPG Industries Ohio, Inc.

By: Adam Stevenson  
Adam Stevenson, President

This document prepared by:

Thomas L. Butera  
Attorney at Law  
PPG Industries, Inc.  
One PPG Place  
Pittsburgh, Pennsylvania 15272

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STATE OF OHIO )  
 ) SS:  
COUNTY OF DELAWARE )

On this 17<sup>th</sup> day December, 1999, before me, a notary public, the undersigned officer, personally appeared Adam Stevenson, who acknowledged himself to be the President of PPG Industries Ohio, Inc., and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



*Bonnie D. Carter*

Notary Public

BONNIE D. CARTER  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES MAY 6, 2000  
MARION COUNTY

My Commission Expires: May 6, 2000

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# The Western Reserve Surveying Co.

4705 STATE ROAD  
CLEVELAND, OHIO 44109  
PHONE: 216 / 741-8110 741-3243  
FAX: 216 / 741-3926

## ATTACHMENT A

A-3623  
May 13, 1999

### LOCAL DESCRIPTION OF AREA 1

situated in the City of Cleveland, County of Cuyahoga and  
State of Ohio and known as being part of Original Rockport  
Township Section No. 12 and more fully described as follows:

Beginning at a point in the centerline of West 143rd  
Street (formerly South Street), 50 feet wide, at its  
intersection with the Northerly line of The Marshall  
Estates Subdivision as shown by the recorded plat in  
Volume 138 of Maps, Page 26 of Cuyahoga County Records;

Thence North 87°-45'-00" West along the Northerly line of  
The Marshall Estates Subdivision, 722.59 feet to a point;

Thence North 2°-15'-00" East 250.68 feet to a point and  
the principal place of beginning;

Thence North 87°-40'-48" West 36.00 feet to a point;

Thence North 2°-19'-12" East 4.00 feet to a point;

Thence South 87°-40'-48" East 36.00 feet to a point;

Thence South 2°-19'-12" West 4.00 feet to a point and the  
principal place of beginning and containing 144 square  
feet of land, be the same more or less but subject to all  
legal highways.

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# The Western Reserve Surveying Co.

6705 STATE ROAD  
CLEVELAND, OHIO 44109  
PHONE: 216 / 741-0110 741-3243  
FAX: 216 / 741-3926

## ATTACHMENT B

A-3623  
May 13, 1999

### LEGAL DESCRIPTION OF AREA 3

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original Rockport Township Section No. 12 and more fully described as follows:

Beginning at a point in the centerline of West 143rd Street (formerly South Street), 50 feet wide, at its intersection with the Northerly line of The Marshall Estates Subdivision as shown by the recorded plat in Volume 139 of Maps, Page 26 of Cuyahoga County Records;

Thence North  $87^{\circ}-45'-00''$  West along the Northerly line of The Marshall Estates Subdivision, 620.66 feet to a point;

Thence North  $2^{\circ}-15'-00''$  East 128.87 feet to a point and the principal place of beginning;

Thence North  $87^{\circ}-21'-17''$  West 4.00 feet to a point;

Thence North  $2^{\circ}-38'-43''$  East 39.50 feet to a point;

Thence South  $87^{\circ}-21'-17''$  East 4.00 feet to a point;

Thence South  $2^{\circ}-38'-43''$  West 39.50 feet to a point and the principal place of beginning and containing 158 square feet of land, be the same more or less but subject to all legal highways.

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