

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions is made and entered into as of this 6th day of November, 1985, by THE TITLE GUARANTEE & TRUST COMPANY, TRUSTEE; UNIVERSITY OF TOLEDO CORPORATION, an Ohio corporation; KUHLMAN CORPORATION, an Ohio corporation; KBE COMPANY, an Ohio partnership; THE ANDERSONS, an Ohio limited partnership; MAUMEE STONE COMPANY, an Ohio corporation; HAROLD F. SMITH; and MAUMEE ASSOCIATES, an Ohio partnership (collectively, the "Owners").

RECITALS:

The Owners own various parcels of real property located in Maumee, Lucas County, Ohio, and more particularly described in attached Exhibits A through H (the "Property");

On October 7, 1985, the Maumee City Council enacted Ordinances Nos. 166-1985 and 167-1985 which rezoned the Property as C-M Commercial-Industrial;

Section 153.15 of the Zoning Code of the City of Maumee requires the Owners to establish an Architectural Committee to formulate a plan and standards for development of the Property;

NOW, THEREFORE, for the mutual benefit and protection of the Owners and their heirs, successors, assigns, lessees, invitees and licensees, to insure that the Property will always be an attractive and consistently harmonious part-like setting for business and industry with high quality improvements, and to comply with Section 153.15 of the Zoning Code of the City of Maumee, the Owners hereby agree as follows:

ARTICLE I
NECESSITY OF ARCHITECTURAL REVIEW AND APPROVAL

From and after the date hereof, no improvement shall be commenced, constructed, erected, placed, maintained or permitted upon any part of the Property; nor shall any addition or exterior alteration be made thereon; nor shall any landscaping or mounding be initiated or any sign be erected or altered, unless and until the plans and specifications for same, in such form and detail as the Committee

(as defined in Article II) may deem necessary, shall have been submitted to and approved by the Committee, as provided in Article IV.

ARTICLE II
ARCHITECTURAL COMMITTEE

2.1 Designation of Committee. There is hereby established the Architectural Committee (“Committee”) consisting of the following persons:

<u>Member</u>	<u>Alternate</u>	<u>Term of Office Commencing November 6, 1985</u>
John T. Bearss	J. T. Kirkby	1 year
W. Edward Gibbs	William R. Markin	2 years
Carime Kellermeier	Nancy R. Walker	2 years
Marion S. Bartholomew	Richard Cothorn	3 years
Richard Smith	Harold F. Smith	4 years
Dallas Paul	Thomas H. Anderson	5 years
Frederick J. Kretzfeld	Christopher J. Miller	5 years

2.2 Membership. The Committee initially shall consist of the above seven (7) members, the number of which can be increased or decreased by majority vote of the Owners, and each member shall serve until the end of his term of office as set forth in paragraph 2.1. The Committee shall select a Chairman and a Secretary from among its membership.

In the event of a member’s absence or temporary disability, his designated alternate shall act and vote on the member’s behalf during that period. In the event a member dies, resigns or is permanently disabled, his alternate shall assume the member’s place on the Committee until the end of the member’s term and shall designate in a writing delivered to the Secretary an alternate to act on his behalf in case of absence, temporary disability, death, resignation or permanent disability.

Each of the seven original Committee members or their alternates shall serve out the term of office as set forth in paragraph 2.1. Thereafter, terms of office shall be for five (5) years. Vacancies on the Committee occurring due to the expiration of a member’s term of office shall be filled by a majority vote of the Owners of record present at the annual meeting to be held on the last Monday of October of each year. The place, date and time of the annual meeting shall be designated by the

Committee in a notice sent to the Owners at least thirty (30) days prior to the date of the annual meeting. No Committee member who has served a term of at least three (3) consecutive years shall be eligible for re-election to a term immediately following his expiring term. Members elected by the Owners at the annual meetings to fill vacancies shall designate in a writing delivered to the Secretary an alternate to act on their behalf in case of absence, temporary disability, death, resignation or permanent disability. Designations of alternates may be amended at any time by the appointing member in a writing delivered to the Secretary.

All members shall serve without compensation.

2.3 Voting. Each member of the Committee shall be entitled to one (1) vote. The presence of a majority of the members shall constitute a quorum, and the majority vote of the members present at a duly called meeting shall constitute the action of the Committee. The Committee may also take action by a writing signed by all members.

2.4 Mailing Address. Any and all notices to the Committee shall be mailed to the following:

Chairman
Architectural Committee
c/o Tomahawk Development Co.
320 W. Dussel Drive
Maumee, Ohio 43537

The Committee is hereby empowered by the Owners to change such address by an amendment to this Declaration.

2.5 Duration. The Committee as empowered herein shall continue in existence as long as any of the Property is zoned "C-M Commercial-Industrial" pursuant to the Zoning Code of the City of Maumee.

ARTICLE III **INCLUSION OF OTHER REAL ESTATE**

Other real estate which is by the provisions of Section 153.15 of the Zoning Code of the City of Maumee eligible for inclusion in the definition of Property hereunder and which has been zoned

C-M Commercial-Industrial under such Zoning Code may become a part of the Property hereunder upon approval of the Owners on such terms and conditions, not inconsistent with such Zoning Code, as the Owners by amendment hereto may agree.

ARTICLE IV
COMMITTEE DUTIES AND POWERS

4.1 In General. The Committee shall establish a plan setting forth standards for development of the Property with respect to (1) landscaping and mounding, (2) yard requirements, (3) sign requirements, and (4) building design and materials. The plan and standards may be more but not less restrictive than the standards established by the Zoning Code of the City of Maumee for the Property. Such plan and standards also shall set forth the manner, form and required content of the plans and specifications which are to be submitted to the Committee and the criteria or basis upon which the plans and specifications will be evaluated and approved or disapproved by the Committee. The Committee shall annually file the plan and standards and any amendments thereto with the Administrator of the City of Maumee, and copies thereof shall be available to the Owners or their representatives upon request. Such plan and standards, as amended from time to time, shall be deemed incorporated herein.

4.2 Submission of Plans and Specifications. As set forth in Article I, no alternations or improvements of any kind may be commenced on any part of the Property unless and until the plans and specifications therefor have been submitted by the Owner (or his authorized agent) of the portion of the Property to be altered or improved, and approved in writing by the Committee. The Committee may require submission of such additional information as may be reasonably necessary for it to completely evaluate the proposed alteration or improvement in accordance with its plan and standards.

4.3 Approval or Disapproval of Plans and Specifications. The Committee shall approve or disapprove any plans and specifications submitted to it, predicated on the Committee's sole opinion as to whether the improvements conform to its duly adapted plan and standards; provided, however, the Committee shall exercise its powers in a reasonable manner and in good faith, and shall not arbitrarily or unreasonably withhold its approval of plans and specifications. The Committee shall in

writing advise the party submitting the plans and specifications of the Committee's approval or disapproval thereof. Upon written request by the applicant within thirty (30) days of any notice of disapproval, the Committee shall provide a written explanation of its reasons for such disapproval. The decision of the Committee shall be final, conclusive and binding on the applicant and all other persons. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Committee may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and reject the balance. If the Committee fails either to approve or disapprove plans and specifications (including resubmission of disapproved plans and specifications which have been revised), or to reject them as being inadequate, within thirty (30) days after all required information has been submitted, it shall be conclusively presumed that said plans and specifications have been approved.

4.4 Use of Consultants. The Committee shall have the power to employ professional consultants, such as attorneys and architects, as may be necessary in the exercise of its powers and duties.

4.5 Fees. The Committee may adopt a schedule of reasonable fees for providing copies of the plan and standards as provided in paragraph 4.1 and for any other materials, and for processing requests for Committee approval of plans and specifications.

4.6 Inspection and Enforcement. Committee members or their agents may from time to time at any reasonable hour and upon reasonable prior notice enter the Property and inspect the improvements to ascertain compliance with this Declaration. If any portion of the Property has been altered or improved without prior approval of the Committee, or deteriorates in condition through casualty or lack of maintenance, then the Owner shall upon demand of the Committee cause the improvements to be restored to conform to the plan and standards of the Committee then in effect and shall bear all costs and expenses of such restoration and the costs of the Committee including its reasonable attorney fees. If the Owner fails to restore the improvements to compliance, then the Committee shall have the power to (1) enter upon the site and summarily abate and remove, at the expense of the Owner, any nonconforming structure, thing or condition, or (2) prosecute a proceeding at law or in equity against the Owner who is violating or attempting to violate any of the Committee's plan

and standards to enjoin or prevent such Owner from doing so, to cause said violation to be remedied, or to recover damages for said violation; provided, however, the Committee shall give the Owner of the offending property ten (10) days' prior written notice before instigating corrective actions and shall specify in the notice the nature of the violation. In any event, Committee members and their agents shall not be deemed guilty of any manner of trespass for such entry, abatement or removal.

4.7 No Waiver. A failure of the Committee to enforce any of the terms of the plan and standards shall in no event be deemed to be a waiver of or acquiescence in or consent to any violation thereof, and the Committee shall at all times retain the right to enforce the same. The Committee shall have no liability at law or in equity to any person for failure to enforce any of the terms of the plan and standards.

4.8 Expenses. The Committee shall have the power to annually assess to Owners, pro rata on the same basis that voting power of the Owners is determined under Article VI, for its reasonable expenses actually incurred in discharging its duties, such as consulting fees, postage, telephone, photocopying and secretarial expenses, and any legal and other costs of enforcement of the plan and standards of the Committee.

ARTICLE V **LIMITATION ON LIABILITY**

Neither the Owners, the Committee, nor individual members of the Committee or their respective agents, successors, heirs or assigns shall be liable in damages to anyone submitting plans and specifications to the Committee for approval, or to any person having an interest in any of the Property affected by this Declaration, by reason of (1) the Committee's approval or disapproval of any plans and specifications, whether or not defective; (2) any construction, performance or nonperformance by an Owner of any work or improvements, whether or not pursuant to approved plans and specifications; (3) any mistake in judgment, negligence, action or omission in exercising the Committee's powers and duties hereunder; or (4) the enforcement or failure to enforce any of the terms of the Committee's plan and standards. Every person who submits plans to the Committee for approval agrees, by submission of such

plans and specifications, and every Owner or other person who acquires an interest in any portion of the Property agrees, by acquiring title or an interest therein, that he will not bring any action or suit to recover any such damages. The Committee's approval of any submitted plans and specifications shall not constitute the assumption of any responsibility by, or impose any liability upon, the Committee or its members or agents as to the accuracy or sufficiency thereof.

ARTICLE VI
MISCELLANEOUS

6.1 Voting Power of Owners and Meetings. Each record Owner shall be entitled to one (1) vote for each full acre of the Property owned by such Owner as determined solely by the Committee; provided, however, each Owner shall be entitled to at least one (1) vote. Annual meetings of the Owners shall be held as provided for in paragraph 2.2. The Committee may call a special meeting of the Owners upon at least thirty (30) days' notice to the Owners designating the date, time and place of the special meeting. For notice purposes, an Owner shall continue to be deemed an Owner until the interest of such Owner has been transferred by a duly executed, delivered and recorded deed and such Owner or such Owner's grantee has provided written notice to the Committee of the name and address of such grantee. A majority vote of the Owners present at a properly called meeting shall constitute the action of the Owners.

6.2 Modification. This Declaration may be modified or revoked by a writing executed by such number of the Owners as have a majority of the voting power.

6.3 Covenants to Run with the Land. Each grantee of any portion of the Property, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, and the jurisdiction, rights and powers of the Committee, created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby created, granted, reserved or declared, and all impositions and obligations hereby imposed shall run with the land and each and every part thereof and bind each and every Owner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

6.4 Subordination. All restrictions, covenants, conditions, agreements and other provisions herein contained shall be deemed subject to and subordinate to all mortgages or deeds of trust in the nature of a mortgage now or hereafter executed, encumbering any of the Property, and none of said restrictions, covenants, conditions, agreements or other provisions shall supersede or in any way reduce the security or affect the validity of any such mortgage or deed of trust in the nature of a mortgage. If any portion of the Property is acquired in lieu of foreclosure or is sold under foreclosure of any mortgage or under any judicial sale, any purchaser of such sale, his heirs, successors or assigns, shall hold any and all property so purchased or acquired subject to all of the restrictions, covenants, conditions, agreements and other provisions of this Declaration.