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THE HARBOUR HOMEOWNERS ASSOCIATION, INC.

DECLARATION OF RESTRICTIONS AND COVENANTS
OF RECORD

This will certify that copies of this Declaration and By-Laws attached as an Exhibit hereto, were filed in the Office of the County Auditor, Erie County, Ohio, on Nov. 9, 1984.

By: R. Haacke
Deputy Auditor

This Instrument Prepared By:

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THE HARBOUR HOMEOWNERS ASSOCIATION, INC.

J. B. WOLFF & ASSOCIATES, INC.

SANDUSKY, OHIO

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DECLARATION OF RESTRICTIONS AND COVENANTS OF RECORD

WHEREAS, J. B. Wolff & Associates, Inc., an Ohio corporation (hereinafter the "Developer"), desires to subject its real property, herein described together with such additions as may hereinafter be made (as provided in Article II), 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 each owner thereof; and

WHEREAS, the Developer deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and be assigned the powers of maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, there has been or will be created, under the laws of the State of Ohio, a non-profit corporation known as the The Harbour Homeowners Association, Inc., for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, J. B. Wolff & Associates, Inc., being the owner of all of the following described premises as appears of record, does hereby for itself, its successors and assigns, impose upon said premises, the following restrictions, rights, limitations, agreements, covenants and conditions, which premises are described on Exhibit A, attached hereto and made a part hereof.

In accordance with the general plan for the development of The Harbour of which the above-described property is a part and such additions as may hereinafter be made, all of the above-mentioned sublots in the aforesaid division shall be held, transferred, used, occupied and conveyed subject to and in accordance with the following restrictions, rights, limitations, agreements and conditions:

ARTICLE I

Definitions

Section 1.

The following words when used in this instrument or supplemental instrument (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to The Harbour Homeowners Association, Inc., an Ohio non-profit corporation.
- (b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to these covenants and restrictions or those in any supplemental instrument under the provisions of Article II hereof.

- (c) "Common Properties" shall mean and refer to those areas of land described on said Plat, if any, those so designated in any supplemental instrument under the provisions of Article II hereof, and those Lots or Living Units heretofore or hereafter conveyed to the Association and designated in such conveyance as Common Properties, and intended to be devoted to the common use and enjoyment of the owners of The Properties.
- (d) "Limited Common Properties" shall mean and refer to those areas of land described on said Plat, if any, those Lots or Living Units conveyed to a private club entity and designated in such conveyance as Limited Common Properties, and those so designated in any supplemental instrument under the provisions of Article II hereof and intended to be devoted to private club purposes.
- (e) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of Common Properties and Limited Common Properties as heretofore defined.
- (f) "Living Unit" shall mean and refer to any portion of a building situated upon The Properties designated and intended for use and occupancy as a residence by a single family.
- (g) "Model Home" shall mean any single family or multi-family dwelling unit or business office used solely as a model or office for the sale of other dwelling units and having no person living within said unit.
- (h) "Single Family Attached Dwellings" shall mean and refer to any buildings having common walls, including, but not limited to, town house dwellings and high rise dwellings.
- (i) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties, but notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (j) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article IV, Section 1 hereof.
- (k) "Supplemental Instrument" shall mean and refer to instruments recorded in the future which bring other parcels within the operation of the covenants and restrictions contained herein, or which modify or add to the covenants and restrictions in accordance with Article XI, Section 1 hereof.

ARTICLE II

Property Subject to These Covenants and Restrictions:
Additions Thereto

Section 1. Existing Property.

The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to these covenants and restrictions in the property herein conveyed, all of which real property shall hereinafter be referred to as "Existing Property."

Section 2. Additions to Existing Property.

Additional lands may become subject to these covenants and restrictions in the following manner:

- (a) Additions by Action of Developer. Developer, its successors and assigns, shall have the right without consent of Owners or the Association to bring within the scheme of these covenants and restrictions of additional properties.

The additions authorized under this and the succeeding subsection shall be made by filing for record a Supplemental Instrument with respect to the additional property which shall extend the scheme of these covenants and restrictions to such property.

Such Supplemental Instrument may contain such complimentary additions and modifications of the covenants and restrictions contained in this instrument as may be necessary to reflect the different character, if any, of the added properties, and as are not inconsistent with the scheme of these covenants and restrictions.

- (b) Other Additions. Upon approval in writing of the Association, pursuant to a vote of its Members as provided in its Articles of Incorporation, the Owner of any property who desires to add it to the scheme of these covenants and restrictions and to subject it to the jurisdiction of the Association, may file for record a Supplemental Instrument of covenants and restrictions as described in subsection (a) hereof.
- (c) Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association, as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this instrument within the Existing Property together with the covenants and restrictions established upon any other properties

as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this instrument within the Existing Property except as hereinafter provided.

ARTICLE III

General Plan of Development

There has been prepared by the Developer a General Plan of Development showing the proposed development of the property described in this instrument as submitted to the City of Sandusky, Ohio, as a planned unit development. The General Plan of Development shall not bind the Developer, its successors or assigns, to adhere to the Plan in any subsequent development of the land shown thereon as may be approved by the City of Sandusky, and oral representations of salesmen, agents, or employees of the Developer or of the Developer's successors in interest shall not in any way bind the Developer or its successors in interest to adhere to the Plan in any subsequent development as may be approved by the City of Sandusky. It also shall be understood that the Developer shall be free to develop such portions or sections of the lands depicted in the General Plan of Development as, in the reasonable exercise of its discretion, it deems in the best interest of the entire development, without regard to the relative location of such portions or sections within the overall plan; that it shall not be required to follow any predetermined sequence or order of improvement and development; and that it may bring within the scheme of this Declaration additional lands, and develop the same before completing the development of the Existing Property as may be approved by the City of Sandusky.

Notwithstanding anything to the contrary herein contained, the Developer, its successors and assigns, shall implement each phase of the Plan in substantial conformity to the planned unit development plans and specifications as submitted to and approved by the City of Sandusky and any subsequent amendments thereto as approved by the City of Sandusky.

ARTICLE IV

Membership and Voting Rights in the Association

Section 1. Membership.

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot or Living Unit which is subject by covenants of record to assessment by the Association shall be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

Section 2. Voting Rights.

The Association shall have two classes of voting membership:

- (a) Class A. Class A Members shall be all those Owners as defined in Section 1, with the exception of the Developer. Class A Members

shall be entitled to one vote in person or by proxy for each Lot or Living Unit in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot or Living Unit, all such persons shall be Members, and the vote for such Lot or Living Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit.

(b) Class B. Class B Members shall be the Developer. The Class B Member shall be entitled to four votes in person or by proxy for each Lot in which it holds the interest required for membership by Section 1 and for every Living Unit in any Single Family Attached Dwelling owned by it until such Living Unit is first sold, provided that the Class B membership shall cease and become converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (1) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, determined on the basis of the total intended units for the entire project; or
- (2) on January 1, 2000.

From and after the happening of these events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot or Living Unit in which it holds the interests required for membership under Section 1.

Section 3. Tenants-Land Contract Vendees.

Tenants or land contract vendees of Owners shall have no right to vote for the Lot or Living Unit in which they hold an interest unless they hold a power of attorney from such Owner or the proxy of such Owner.

ARTICLE V

Property Rights in the Common Properties

Section 1. Members' Easements of Enjoyment.

Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit.

Section 2. Title to Common Properties.

The Developer may retain the legal title to the Common Properties until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same but,