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Subdivision Covenants and Restrictions

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COVENANTS

FOR

AVON NORTH SEC. 1

HENDRICKS COUNTY



6892

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, MADE ON THE DATE HERINAFTER SET FORTH BY THE NORTHLAND GROUP CORPORATION, HEREINAFTER REFERRED TO AS THE "DECLARANT".

WITNESSETH:

WHEREAS, DECLARANT IS THE OWNER OF CERTAIN PROPERTY IN HENDRICKS COUNTY, STATE OF INDIANA, WHICH IS MORE PARTICULARLY DESCRIBED AS: A PART OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 15 NORTH, RANGE 1 EAST OF THE SECOND PRINCIPAL MERIDIAN AND BEING PARTICULARLY DESCRIBED AS; "SECTION I" IN SYCAMORE CREEK SUBDIVISION AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89 DEGREES 20 MINUTES 51 SECONDS WEST ON AND ALONG THE LINE OF QUARTER SECTION 435.75 FEET TO THE BEGINNING POINT OF THIS DESCRIPTION; THENCE CONTINUE SOUTH 89 DEGREES 20 MINUTES 51 SECONDS WEST ON AND ALONG SAID NORTH LINE 871.91 FEET; THENCE SOUTH 00 DEGREES 39 MINUTES 09 SECONDS EAST 200 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 51 SECONDS West 80 FEET; THENCE SOUTH 00 DEGREES 39 MINUTES 09 SECONDS EAST 430.12 FEET; THENCE SOUTH 28 DEGREES 45 MINUTES 42 SECONDS EAST 179.79 FEET; THENCE NORTH 61 DEGREES 14 MINUTES 18 SECONDS EAST 50.16 FEET; THENCE SOUTH 28 DEGREES 45 MINUTES 42 SECONDS EAST 150.00 FEET; THENCE NORTH 61 DEGREES 14 MINUTES 18 SECONDS EAST 620.00 FEET; THENCE SOUTH 35 DEGREES 36 MINUTES 26 SECONDS EAST 153.82 FEET; THENCE NORTH 54 DEGREES 23 MINUTES 34 SECONDS EAST 150.00 FEET; THENCE SOUTH 35 DEGREES 36 MINUTES 26 SECONDS EAST 50.00 FEET; THENCE NORTH 54 DEGREES 23 MINUTES 34 SECONDS EAST 119.23 FEET; TO A POINT OF A CURVE, SAID CURVE BEING TO THE RIGHT WITH A RADIUS 215.00 FEET; THENCE 136.96 FEET ON AND ALONG SAID CURVE; THENCE SOUTH 89 DEGREES 06 MINUTES 26 SECONDS EAST 97.43 FEET; TO A POINT OF THE WEST RIGHT OF WAY LINE OF STATE ROAD 267; THENCE NORTH 12 DEGREES 00 MINUTES 50 SECONDS EAST ON AND ALONG SAID RIGHT OF WAY LINE 70.84 FEET; THENCE NORTH 01 DEGREES 50 MINUTES 41 SECONDS WEST 212.75 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 51 SECONDS WEST 367.59 FEET TO THE POINT OF BEGINNING.

SUBJECT FURTHER TO ALL OTHER LEGAL EASEMENTS AND RIGHTS-OF-WAY.

ENTERED FOR RECORD

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APR 07 89

Ronnie S. Mumphreys
HENDRICKS COUNTY RECORDER

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NOW THEREFORE, Declarant hereby declares that all of the properties described above 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 1

Membership

Section 1.01. Definitions.

Clause (a). "Association" shall mean and refer to Sycamore Creek Property Owners Association, Inc., an Indiana not-for-profit Corporation, its successors and assigns.

Clause (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 or residence 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.

Clause (c). "project" shall mean and refer to that certain real property commonly known as Sycamore Creek in Avon, Indiana as legally described in Schedule A attached, and such additions

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thereto as may hereafter be brought within the jurisdiction of the Association.

Clause (d). "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Clause (e). "Declarant" shall mean and refer to The Northland Group Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Clause (f). "Plat" shall mean and refer to plat of the Avon North Subdivision as recorded in Book P.C. 1, page 1, Slide 11 in the office of the recorder of Hendricks County, Indiana, on March 6th, 1989, and as may be amended from time to time.

Section 1.02. Membership and Voting Rights.

Clause (a). Every owner of a lot or residence which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Clause (b). The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each lot or residence owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any lot.

Class B. Class B members shall be the Declarant and shall be entitled to three (3) votes for each lot or residence owned. The Class B membership shall cease and be converted to class A membership on the happening of either of the following events, whichever occurs earlier:

- a. When the total votes outstanding in the Class A membership equal seventy-five percent (75%) of the total votes outstanding in the Class B Membership, or
- b. On January 1, 2002.

Clause (c). Change of membership in the Association shall be established by recording to the public records of Hendricks County, Indiana a deed or other instrument establishing a record title to a lot or residence in the Project and the delivery to the Association of a certified copy of such instrument by the new owner within ten (10) days of recordation. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated.

Clause (d). The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his lot or residence.

Clause (e). If a lot or residence is owned by more than one person, or is under lease, or is owned by a corporation, partnership, or joint venture, or other entity, the designation of voting representative shall be made and such voting representative for purposes of this article shall be considered to be the "member."

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Article 2

Covenant For Maintenance Assessments

Section 2.01. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owner within the properties, hereby covenants, and each owner of any lot or residence by the acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (a) annual assessments or charges, and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2.02. Maintenance by the Association. The Association shall provide for maintenance of: the course of flow for drainage and utility easements, roadways and curbing (but excluding driveways exclusive to the residence), the project identification sign located at entrance to project in the right-of-way of Sycamore Creek, dusk to dawn lights in front yards, and such other exterior improvements as the Association

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deems necessary by a vote of two-thirds (2/3) of all of its membership.

Section 2.03. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be One Hundred Twenty-Five Dollars (\$125.00) per year.

- a. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased each year not more than two percent (2%), over the National rate of annual inflation as determined by the United States Government, above the maximum assessment for the previous year without a vote of the membership.
- b. From and after January 1 on the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- c. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 2.04. Insurance. The owner of each lot or residence within Sycamore Creek shall be responsible for purchasing an all risk, homeowner's policy of insurance insuring the dwelling on his lot. The amount of such required insurance must be sufficient to equal the reasonable replacement value of

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the dwelling and conform to such other requirements as are set out in the By-Laws of Sycamore Creek Property Owners Association, Inc.

The Association shall also obtain Comprehensive Public Liability Insurance, Directors and Officers Insurance and Common Area Casualty Insurance, in such limits as the Board of Directors shall deem necessary for the protection of persons and property associated with the "Association", together with other liability insurance if deemed necessary or appropriate by the Board of Directors. Such insurance shall insure to the benefit of each individual Owner, the Association, the Board of Directors, and any manager or company acting on behalf of the Association.

All premiums for all such insurance shall be paid by the Association as part of the maintenance Assessment.

Each Owner shall have the right to purchase any additional insurance he may deem necessary, and each Owner shall be solely responsible for insurance on the contents of his dwelling including all floor and wall coverings, and fixtures and betterments installed by the Owner, as well as insurance coverage for additional living expense as may be occasioned by the rebuilding of any dwelling. It shall be the individual responsibility of each owner, at his own expense, to provide as he sees fit, homeowners's liability insurance, theft and other insurance covering personal property damage and loss.

The Association shall obtain comprehensive public liability insurance, Directors and Officers Insurance and common area

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casualty insurance in such limits as the Board of Directors shall deem necessary for the protection of persons and property associated with the "Association", together with other liability insurance if deemed necessary or appropriate by the Board of Directors. Such insurance shall insure to the benefit of each individual Owner, the Association, the Board of Directors, and any manager or company acting on behalf of the Association.

All premiums for all such insurance shall be paid by the Association as part of the maintenance Assessment.

Section 2.05. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, 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, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 2.06. Notice and Quorum for Any Action Authorized

Under Section 2. Written notice of any meeting called for the purpose of taking any action authorized under Section 2, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to

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cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 2.07. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and residences and may be collected on a monthly basis.

Section 2.08. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to each lot or residence on the first day of the month following the sale of each lot or residence by Declarant. The first annual assessment for each lot or residence shall be pro rated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot or residence at least thirty (30) days in advance of such annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates for payment of all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot or residence has been paid. A properly executed certificate of the

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Association as to the status of assessments on lot is binding upon the Association as of the date of its issuance.

Section 2.09. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of three percent (3%) above the prime rate of interest being charged by Bank One, Indianapolis, Indiana. The Association may bring an action at law against the Owner personally obligated to pay the same, including an action to foreclose the lien against the property and for reimbursement of reasonable attorney's fees associated with said actions or foreclosure of liens. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot or residence.

Section 2.10. Subordination of the 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 or residence shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any other legal proceeding in which the Association has standing to join the proceedings and for which it has or any of its members have legal or actual notice of such proceedings, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve the Owner prior to such sale or transfer from liability for assessments due prior to sale or transfer. A

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subsequent owner or member after sale or transfer shall be liable for assessments; thereafter, becoming due or from the lien thereof.

Article III

General Provisions

Section 3.01. No structure shall be erected, altered placed or permitted to remain on the real estate described herein other than one single family dwelling per lot and attached private garage. No residence or dwelling shall be constructed on said real estate unless such residence, exclusive of open porches and attached garages, shall have a ground floor area of at least 1,500 square feet, if it is a one story structure or 1,000 square feet on the ground floor, if it is a higher structure, and in the case of a building higher than one story, there shall be at least 600 square feet in addition to the ground floor area. All dwellings shall have as a minimum, a two (2) car attached garage.

Section 3.02. No trailer, tent, shack, basement, garage, barn, above ground storage tank, or temporary structure shall be used for temporary residential purposes on the property, and no boat, trailer, recreational vehicle, truck larger than a 3/4 ton pick-up, nonoperating or vehicle in a state of disrepair, or camper of any kind (including, but not in limitation thereof, house trailers, camping trailers and boat trailers) shall be kept, parked or repaired upon said lot except within a garage.

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Section 3.03. No structure of any kind on said real estate shall be used for the purpose of carrying on a business, trade, or profession, (except as a personal home office without business invitees) nor shall anything be done therein or upon said real estate which shall be or become a nuisance to the neighborhood.

Section 3.04. No poultry or farm animals shall be raised or maintained on the property. This restriction shall not prohibit a resident from keeping a domesticated controllable household pet or bird. All dogs shall be kept on a leash and under the control of its owner, or in a fenced area which utilizes chain link fencing and top and bottom railings. This fenced area must also comply with the requirements set forth in numbered paragraph 20 below.

Section 3.05. It is the intent of the subject development that all natural vegetation be maintained in the same manner and condition as before construction. Therefore, there shall be no removal of trees which have a diameter of more than six (6) inches unless approved by the building committee established by these covenants. Further, there shall be no earth removal or changing of the terrain without approval of said committee.

Section 3.06. All parking shall take maximum advantage of all off street parking. On street parking shall be limited to guests or invitees of owner and of limited, both as to duration and frequency, so as not to be a routine or protracted condition within the development.

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Section 3.07. The duty and right to review, inspect, approve or reject any and all plans and specifications for construction of any type of house or building, proposed for construction by any property owner, prior to commencing any construction, shall rest with a building committee, which shall initially consist of three (3) members who shall be:

David L. Stroup, Patrick J. Stroup and Donald L. Groninger.

No residence, garage, servants quarters, driveway, fences, swimming pools, mail box or other structure of any kind shall be constructed on said site without building committee approval. Elevation plans, plans for landscaping, and any other data or information that may be requested, shall be submitted to the building committee for its approval. All modifications and additions of all types to any structure or improvement, whether such modification or addition is to occur before or after initial approval of the residence, must be submitted to and approved by the building committee. The majority of said members shall constitute a quorum for approval or disapproval of any plans submitted, and the decision of the majority shall be final. The committee shall indicate its written approval or disapproval of plans submitted within ten (10) days after submission of all required information, and if the committee fails to do so, it shall be deemed approval of such plans.

Any approved construction shall be completed within six (6) months of commencement, but not later than twelve (12) months after approval. No charges shall be made to any lot owner of any

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real estate for review, evaluation, and approval of submitted plans.

In the event of death, disability or resignation of any of said members, the remaining members shall select the successor or successors to fill the vacancy or vacancies.

Section 3.08. No lot shall be divided into smaller parcels without permission of the Association.

Section 3.09. All owners of lots or residences shall belong to the Sycamore Creek Property Owners Association and shall be governed by the By-Laws of such association.

Section 3.10. Any structure that is externally damaged by fire, tornado, or other disaster shall be repaired or removed within six (6) months of such occurrence.

Section 3.11. There shall be no storage buildings, barns or other out-buildings on any lot within the subdivision.

Section 3.12. The right to enforce the provisions, restrictions, and covenants set forth within, by injunction, together with the right to cause the removal by due process of law of structures erected or maintained in violation thereof, is hereby dedicated and reserved to the owners of the several lots or residences, their heirs or assigns who shall be entitled to such relief without being required to show any damage of any kind to any such owner or owners by or through any such violation or attempted violation.

Section 3.13. No residence shall be erected or occupied until the owner has obtained approval of occupancy from the

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Hendricks County Building Department and or any other State or local occupancy requirements as may be required.

Section 3.14. Each lot shall be encumbered by a blanket temporary easement for the purpose of the installation, maintenance, and upkeep of the drainageways and sub-surface drains, with this blanket temporary easement being supplementary to the easements depicted on the plat of Sycamore Creek.

Section 3.15. All residences shall be required to install and maintain a hard surface drive or driveways which shall be composed of either concrete, asphalt, bomanite, or like material.

Section 3.16. All fireplace and furnace chimneys must be fully masonry wrapped.

Section 3.17. Finished Condition; All interior rooms, shall be fully finished in accordance with the plans submitted and approved by the building committee, at the time of original occupancy.

Section 3.18. Privacy Fences; All privacy fences and fences erected for house pets shall extend to a point no greater than fifteen (15) feet from the sidewalls of the residence and no greater distance than fifty (50) feet from the back or rear wall of the residence. The living quarters alone shall be considered the residence for the purposes of this paragraph.

Section 3.19. There are strips of ground as shown on the plat and marked drainage and utility easement, reserved for the use of public utilities for installation of water and water mains, poles, ducts, lines and wires, subject at all times to the

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proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots or residences in this subdivision shall take their titles subject to the rights of public utilities.

Section 3.20. All residences shall be required to employ the same waste disposal pick-up services as approved and designated by the Sycamore Creek Property Owners Association, Inc.

Section 3.21. All lots in this subdivision are reserved for residential use, and no building other than a one-family residence or structure or facility accessory in use thereto shall be erected thereon.

Section 3.22. No noxious, unlawful, or other offensive activity shall be carried out on any lot in the subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3.23. No lot in this subdivision shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste, and shall not be kept, except in sanitary containers. Trash shall not be burned within the subdivision.

Section 3.24. It shall be the duty of the owner of an unimproved lot or lots in the subdivision to keep the ground cover on the lot or lots properly cut and to keep the lot or lots free from trash and otherwise neat and attractive in appearance. Should any owner fail to do so then the Declarant shall have the

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right to enter upon the premises to take such action as it deems appropriate in order to make the lot neat and attractive and the owner shall upon demand reimburse Declarant for the expenses incurred in so doing.

Section 3.25. There shall be no gravel yards or driveways in the subdivision.

Section 3.26. No tennis courts shall be constructed on any lot.

Section 3.27. No basketball court shall be constructed which shall have the basketball goal closer to the street than the front door of the residential structure.

Section 3.28. No above-ground pools shall be constructed within the subdivision.

Section 3.29. No permanent outdoor clothes line within the subdivision.

Section 3.30. No satellite dishes shall be erected on any lot, or any other antennas, except for television antennas attached to the residence and extending no higher than ten (10) feet above the highest point of the structure.

The foregoing Restrictions shall run with the land until January 1, 1001, and for additional ten (10) year periods thereafter. However, a release executed by at least seventy-five (75%) of the owners of lots or residences in the subdivision, submitted in writing within thirty (30) days prior to the end of any extension, will release the restrictions.

