

DECLARATION OF PROTECTIVE COVENANTS

FOR NEOCOM I

THIS DECLARATION OF PROTECTIVE COVENANTS (this “Declaration”),
is made this 10th day of May, 1999, by MILLER LAND
DEVELOPMENT, LTD.

WHEREAS, Declarant owns the premises described on Exhibit A attached hereto and made a part hereof situated City of Massillon, County of Stark and State of Ohio, be the same, more or less, but subject to all legal highways (the “Park”), which Declarant wishes to subdivide into separate lots and develop into an industrial park;

NOW, THEREFORE, Declarant, for itself and its successors and assigns, hereby enters into this Declaration to impose and create the restrictions and conditions set forth below.

1. **Definitions.** The following words when used in the Declaration shall have the following meanings:
 - (a) The term “Declaration” shall mean this instrument as the same from time to time may be amended as hereinafter provided.
 - (b) The term “Lot” shall mean any individual parcel of the Park, as such parcels may be subdivided and/or combined from time to time.
 - (c) “Owner” shall mean and refer to the record owner, whether one or more persons, partnerships, corporations, or associations, of the fee simple title to any Lot situated within the Park.
 - (d) “Park” shall mean the real property described on the attached Exhibit A.
 - (e) The term “Zoning Code” shall mean the Zoning Code of City of Massillon, Stark County, Ohio, as the same may be amended from time to time.

2. **General Restrictions.** The Park shall hereafter be subject to the following restrictions and conditions, which shall be covenants running with the land:

- (a) **Lot Area, Width and Coverage Regulations.** Each Lot in the Park shall have a minimum width of two hundred (200) feet and a minimum area of two (2) acres. The coverage of any Lot within the Park with buildings or other structures may not exceed forty percent (40%) of the area of such Lot.
- (b) **Landscaping.** The entire area of any Lot shall be landscaped, seeded or developed in a natural vegetative state except for that portion occupied by buildings or other structures, paved walks, parking areas and driveways, and (if applicable) railroad sidings. If the Lot is wooded, the Owner is encouraged to leave the natural landscaping. At least ten percent (10%) of the Lot shall be landscaped with trees and shrubs. Incorporation of irrigation systems and landscaped parking islands is encouraged within the landscape design.

All landscaping to be provided on any Lot shall be completed within sixty (60) days after the substantial completion of construction of the buildings on the Lot, subject to time delays as a result of adverse weather conditions. If the Owner fails to undertake and complete the landscaping within such time period, Declarant may, at Declarant's option, after giving the Owner ten (10) days written notice, proceed thereafter and undertake to complete the landscaping of the Lot in accordance with the landscaping plan. The cost of such landscaping will be paid by the Owner of such Lot to Declarant within thirty (30) days after written notice of such costs is given to such Owner.

- (c) **Off-Street Parking.** The view of parking areas from the public streets shall be obscured by landscape screening, i.e. shrubs and trees or landscaped earthen berm. Chain link fences and other unattractive lot line enclosures are not permitted within the front yard setback area if a corner lot, the applicable side yard setback area. No parking will be permitted on the streets in the Park.
- (d) **Building and Parking Setback.** All buildings, walls, fences or other structures here erected in the Park shall be set back not less than seventy-five (75) feet from the Lot line along any streets (public or private) abutting or within the Park. The perimeter wall(s) of any building or structure hereafter constructed on any Lot shall not be less

than thirty (30) feet from the rear line of the Lot and thirty (30) feet from the side line of the Lot. In the event that a Lot has frontage on more than one street, the setback shall be seventy-five (75) feet from the Lot line along each street.

All parking area shall be set back not less than fifty (50) feet from the Lot line along any streets (public or private) abutting or within the Park and ten (10) feet from the rear or side Lot line.

(e) **Exterior Walls**. Materials for exterior construction of any building or structures may be as follows:

- (1) **Brick**: Shall be hard burned clay.
- (2) **Concrete**: May be poured in place, tilt-up or precast. All concrete shall have textured finishes, unless otherwise approved. Precast structures shall be color impregnated.
- (3) **Concrete Masonry**: Shall be decorative exterior concrete block units with either glazed or broken faced and integral color.
- (4) **Crystallized Glass Panels**
- (5) **Architectural Panels**: Shall be stainless steel, porcelain, enamel painted steel/aluminum insulated sandwich panels.
- (6) **Stone**: Shall have weathered face or shall be polished, fluted, or broken faced.
- (7) **Architectural Terra-cotta**: Shall be hard burnt glazed clay units which is either machine extruded or hard molded.
- (8) **Synthetic Plaster**: May be wall system utilizing insulation board, synthetic reinforced fabric or a fabric with a synthetic plaster finish coat.

(f) **Loading Facilities**. Truck loading and receiving areas shall occur in rear of any buildings or structures on any Lot. Truck loading and receiving areas shall be permitted on the side of such building if sufficient visual screening is installed to screen the dock area from the street. Truck loading and receiving is normally permitted in the front of such building unless dictated by site conditions and only if fully screened from the street.

(g) **Signage**. The only exterior signs permitted are signs which identify the name and address of the occupant. The signs shall not advertise business services. The signs cannot be of unusual size or shape in comparison to the building for which they are used, cannot project above the roofline or over the front Lot line; and cannot be flashing, rotating or portable. All signage will be constructed of the same materials as the exterior of the building.

(h) **Mechanical Equipment**. All utility hookups, air conditioning and heating systems, auxiliary power stations, transformers, or other similar installations not situated on the roof of a build shall be located along the rear of any buildings or structures erected on the Lots; provided however that such may be located in the side yard of any buildings or structures erected on the Lots if such are screened by fencing or shrubs. Any rooftop utility and/or system readily visible from public streets or rights-of-way shall be screened from view by the parapet walls or architectural screening.

(i) **Utilities**. All utility lines shall be located underground, except for high voltage lines.

(j) **Building Height**. The maximum building height is determined by the Zoning Code.

3. **Maintenance**. The owner of each Lot shall maintain (and require any tenant or other person in possession thereof to maintain) the exterior of every building or other structure, the landscaping, and all walks, driveways and parking areas, and other appurtenances, in good condition and repair, and free from the accumulation of rubbish, debris, or other waste materials. All trash containers shall be screened from view by either masonry or a board enclosure in a clean and sanitary condition.

Prior to construction on a Lot, each Owner shall keep such Owner's Lot free of rubbish, debris, refuse and any other unsightly condition.

4. **Outdoor Storage**. No outdoor storage is permitted on any Lot unless such storage is located in the rear of the building and is completely screened from the street and from all adjoining Lots. Tanks can be in the side or rear yard with substantial screening and must be properly painted and maintained. Trucks or other motor vehicles used in the operation of the business may be parked outside the building if in good working order and repair.

5. **All Purpose Trail.** An eight (8) foot wide, all purpose trail (the “Trail”), to be used for walking, biking and non-motorized purposes will be installed by the Declarant at Declarant’s sole cost throughout the Park. The trail will be built within the fifty (50) foot parking setback area across each Lot or on other unbuildable land as deemed necessary by Declarant to provide a continuous link with areas outside the Park and to maximize the recreational function of the Trail. The portion of the Trail will be on the east side of the road. The Trail will be winding, constructed of asphalt material, and built as each street section is completed. Each Lot Owner will be responsible for the maintenance of that portion of the Trail crossing his property.

6. **Plan Approval.** In order to achieve an over-all compatibility of development and ensure quality of architectural, engineering and site development and ensure quality of architectural, engineering and site development; plans showing the architectural design, site layout and landscaping, improvements, walks, driveways, parking areas, utilities, fences, and signage shall be submitted along with samples of exterior material to and be approved by Declarant prior to submission to the City of Massillon and commencement of any grading or other site improvements on Lot or any construction, erection, landscaping or alteration of any building or other structure (including fences or signs). This right of approval shall be exercised in order to achieve such compatibility and ensure such quality. Approval shall not be unreasonably withheld. A copy of the plans as finally approved shall be lodged permanently with Declarant.

7. **Miscellaneous.**

- (a) No covenant, restriction, condition, obligation or provision contained herein shall be deemed to have abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.
- (b) The invalidity of any term, covenant, restriction, condition, limitation or any other provision hereof shall not impair or affect in any manner whatsoever the validity, enforceability of effect of the remaining terms, covenants, restrictions, conditions, limitations and provisions of this Declaration.
- (c) These covenants and restrictions set forth in this Declaration shall in no way affect the provisions now or hereafter contained in the Zoning Code or other governmental regulations, but all land, buildings, and other structures in the Park shall in all cases satisfy the covenants and restrictions set forth in this Declaration as well as the Zoning Code and other governmental regulations, as are from time to time in effect. In

the event the covenants and restrictions or requirements for the use of land, buildings and structures, than those otherwise imposed by the Zoning Code or other governmental regulations, then the covenants and restrictions set forth in this Declaration, then the Zoning Code or other governmental regulations shall control.

- (d) Declarant may from time to time at any reasonable hour, inspect the exterior of any property subject to this Declaration to ascertain compliance therewith.
- (e) Each owner of a Lot by the acceptance of a deed or other instrument of conveyance, automatically thereby consents and approves of this Declaration and accepts the same subject to this Declaration. All restrictions, conditions, covenants, rights and powers created, granted or preserved by the terms of this Declaration shall be deemed to be covenants running with the Park. Each Owner shall be liable only while an Owner of a Lot.
- (g) This Declaration may be amended only as follows:
 - (i) This Declaration may be amended for the purpose of adding real property to the Park and subjecting additional real property to the provisions of this Declaration by an instrument in writing signed by the Declarant.
 - (ii) This Declaration may be amended or terminated for any reason by an instrument in writing signed by all the Owners of the Lots.
 - (iii) This Declaration may be amended at any time in order to (a) comply with any requirements of any federal, state or local government agency or instrumentality (as such regulations may be amended periodically), (b) cure any ambiguity, inconsistency or formal defect or omission in this Declaration, or (c) effect changes in the plat of the Park and/or effect any other changes not materially adverse to the interests of any owner directly affected hereby. All Owners of the Lots must approve any amendments thus created.

Any such amendment shall become effective from and after the filing with the Recorder or Stark County, Ohio of an instrument stating the amendment and signed by either Declarant or all Owners (as the case may be) with the formalities required by law for recording.

(g) This Declaration is for the benefit of and shall be binding on the Owners. Each of the Owners shall have the right to have any breach or threatened breach of the covenants and restrictions contained herein enjoined by order of any court having jurisdiction and the right of specific performance with respect to the provisions of each such covenant or restriction.

(h) This Declaration and the covenants, restrictions and conditions set forth herein shall run with and bind the Park and all Owners for a term beginning with the date that this Declaration is recorded and expire twenty (20) years thereafter. Thereafter, this Declaration shall be automatically extended for successive periods of five (5) years unless amended as provided herein.

(i) Any notice required to be sent to any Owner shall be deemed to have been properly sent when mailed, postage prepaid to the last address of the person or entity who appears as such Owner as such address appears on the records of the Stark County Auditor.

IN WITNESS THEREOF, the Declarant has caused these presents to be executed this 10th day of May, 1999.

Witnesses:

/s/ _____

Print: Gene P. Boerner

/s/ _____

Print: John M. Prelac

DECLARANT:

Miller Land Development, Ltd.

By: _____

Name: Donald M. Miller

STATE OF OHIO, STARK COUNTY, SS:

Before me, as Notary Public in and for said County and State, personally appeared the above named Miller Land Development, Ltd., an Ohio Limited Liability Company, by Donald M. Miller, its Manager who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said Corporation, and the free act and deed of him personally and as such Officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Massillon, Ohio, this 10th day of May, 1999.

/s/ _____
Notary Public

Mark R. Percival, Attorney at Law
Notary Public, State of Ohio
My commission has no expiration date.
R.C. Sec. 14703

EXHIBIT "A"

Situated in the City of Massillon, County of Stark and State of Ohio: And known as and being Out Lot 569 according to the present enumeration of lots therein and as set for in Plat Book 62, Page 94 of the Stark County Plat Records.

This document duly recorded this date, 99 May 10, Jane Vignos, Stark County Recorder, 1999035710.