

Return to Nancy Loftis, 5533 S 27th St Ste 203, Lincoln, NE 68512

DEVELOPER ASSIGNMENT UNDER RESTRICTIVE COVENANTS

(North Creek Business Park)

Lincoln North Creek, L.L.C., a Nebraska limited liability company is the Developer under Restrictive Covenants recorded on September 5, 2005 as Instrument # 2008041848 (Covenants) with the Register of Deeds of Lancaster County, Nebraska.

Under paragraph 4 of the Covenants, Lincoln North Creek, L.L.C. irrevocably assigns the Developer authority for approval of plans to the North Creek Business Park Association, acting through its Board of Directors.

Under paragraph 14 of the Covenants, Lincoln North Creek, L.L.C. acknowledges the Class B membership has converted to Class A membership and there is only Class A membership in the North Creek Business Park Association.

Lots 1 and 2, Block 2, North Creek Business Park has been developed as North Creek Business Park Condominium and the owner of each unit within the Condominium shall be a Class A member in the North Creek Business Park Association.

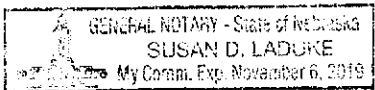
N/K/A Units A, B and C, North Creek Business Park Condominium Regime, Lincoln, Lancaster County, Nebraska

Lincoln North Creek, L.L.C.

By: *Steven L. Koebel*

STATE OF NEBRASKA, COUNTY OF LANCASTER) ss

The foregoing instrument was acknowledged before me this 28 day of December, 2018, by Steven L. Koebel as manager of Lincoln North Creek, L.L.C.



Susan D. Laduke
Notary Public

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RESTRICTIVE COVENANTS
(North Creek Business Park)

Lincoln North Creek, L.L.C., a Nebraska limited liability company (the "Developer") is the titleholder of record of the following-described real estate:

* Lots 1, 2, 5 and 6, Block 2, North Creek Business Park, and Lot 1, Block 1, North Creek Business Park 1st Addition, all in Lincoln, Lancaster County, Nebraska (which, along with Lot 2, Block 1, North Creek Business Park 1st Addition, Lincoln, Lancaster County, Nebraska, are collectively referred to herein as the "Properties"); and

Outlot "A," Block 1, North Creek Commercial Park, and Outlot "B," Block 2, North Creek Business Park, all in Lincoln, Lancaster County, Nebraska (collectively referred to herein as the "Commons").

New River Lincoln North, LLC, a Kansas limited liability company ("New River"), is the titleholder of record of Lot 2, Block 1, North Creek Business Park 1st Addition, Lincoln, Lancaster County, Nebraska, which is part of the Properties.

Each individual lot included within the Properties is hereinafter referred to as a "Lot."

The Properties and the Commons, together with any additions to either the Properties or the Commons as provided for in paragraph 24 hereof, are collectively referred to herein as the "Business Park".

North Creek Business Park Association (the "Association") will be incorporated in Nebraska for the purposes of enforcing the Restrictive Covenants established upon the Properties, administering and maintaining the Commons and providing services to its members.

These Restrictive Covenants are established within and upon the Business Park.

1. USE: No Lot within the Properties shall be used other than for commercial or religious purposes per approved zoning.

* Now known as Units A, B and C, North Creek Business Park Condominium Regime, Lincoln, Lancaster County, Nebraska, a condominium in accordance with the Declaration filed September 5, 2008 as Instrument Number 2008041850; First Amended Declaration filed August 2, 2018 as Instrument Number 2008030084; Second Amended and Restated Declaration filed October 18, 2008 as Instrument Number 2008041635, in the office of the Register of Deeds of Lancaster County, Nebraska

Cap \$ 99.00

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2. **PRIVATE FRONTAGE ROAD:** The private frontage road which provides access to some of the Lots from Fletcher Avenue (the "Frontage Road") shall be subject to the following:

- a. **Maintenance of Frontage Road.** The Association covenants, and each member of the Association benefited by the Frontage Road, by the acceptance of a deed by which the interest requisite for membership in the Association is acquired, shall be deemed to covenant to maintain the Frontage Road, which covenants by the benefited members shall be satisfied by the payment of dues and assessments for the removal of snow from and the maintenance, repair or improvement of the Frontage Road. The Lots benefited by the Frontage Road are as follows:

Lots 1, 2 and 5, Block 2, North Creek Business Park, and
Lots 1 and 2, Block 1, North Creek Business Park 1st
Addition, all in Lincoln, Lancaster County, Nebraska
(collectively referred to herein as the "Frontage Road
Lots").

- b. **Assessments and Liens.** Annual dues and special assessments may be levied by the Board of Directors of the Association against the members owning the Frontage Road Lots on a pro rata basis based upon the relative square footage ratio of each of the Frontage Road Lots to the total square footage of all of the Frontage Road Lots. Such assessments shall cover the costs and expenses of insurance, snow removal, maintenance and repair of the Frontage Road and the costs of any modifications or improvements made to the Frontage Road. Notwithstanding anything herein to the contrary, any special assessment for capital improvements to the Frontage Road, other than any such capital improvements requested by the City, shall require the prior written approval of the owners of at least two-thirds of the Frontage Road Lots. Any such annual or special dues or assessments shall be the personal obligation of the member who is the owner of the Frontage Road Lot assessed at the time of the assessment and, when notice of such obligation is filed with the Lancaster County, Nebraska Register of Deeds, shall be a lien upon the Lot assessed. Notwithstanding anything herein to the contrary, the cost of any modifications or improvements made to the Frontage Road to accommodate an individual Lot owner's access to or from the Frontage Road shall be paid by the owner of such Lot, and shall not be subject to an annual or special assessment against the members owning the Frontage Road Lots.

3. **COMPLETION OF CONSTRUCTION:** Any building placed or constructed upon any Lot within the Properties shall be completed within 18 months after the commencement of construction.

4. **APPROVAL OF PLANS:** Developer or its assignees shall have the exclusive right to establish grades and slopes for any Lot within the Properties and to fix the grade at which any building or other improvement shall be placed or constructed upon any Lot, in conformity with the general plan for the development of the Properties. Plans for any building or other improvement to be placed, constructed or remodeled upon any Lot within the Properties

shall be submitted to Developer and shall show the design, size and exterior material for the building or improvement and the plot plan for the Lot. One set of plans shall be left on permanent file with the Developer or Association. Grading of the Lot or construction, placement or remodeling of any building or improvement shall not be commenced unless written approval of the plans has been secured from the Developer. Written approval or disapproval of the plans shall be given by the Developer within 30 days of receipt of the plans. In the event Developer fails to provide the approval or disapproval within 30 days, the plans shall be deemed to be approved. Approval of the plans shall not be unreasonably withheld, and upon disapproval, a written statement of the grounds for disapproval shall be provided. The Developer shall have the exclusive right to disapprove the plans, if in the Developer's opinion, the plans do not conform to the general standard of development in the Properties, The rights and duties of the Developer under this paragraph, except as to Lots of which the Developer is the titleholder, may be assigned by the Developer in writing to the Association at any time. The Developer or the Association may charge reasonable fees in connection with the review, including fees charged by engineers or architects or others employed by Developer to review the plans.

5. **GENERAL STANDARDS FOR BUILDINGS:** The following general standards of development shall guide the Developer in the review of any plans for buildings submitted for approval within the Business Park. The Developer shall have the right to disregard, reduce, increase or otherwise explicitly modify these standards within the Properties. However, any modification of the standards shall be to permit an alternate which will be in conformance with maintaining a high quality, high amenity business park and, if required, shall be subject to approval by the City.

- a. **Standards.** The Developer shall establish and periodically publish reasonable standards and design guidelines with respect to all buildings and other improvements on any Lot within the Properties ("Standards"). National or regional plans, including specific building materials and colors, shall be reasonably accommodated.
- b. **Exterior Finish.**
 - i. **Approval.** All exterior finish materials and colors shall meet these standards and be approved by the Developer.
 - ii. **Front/Street Facing Elevation.** The front or public street facing elevation of any building (limited to a singular side) shall be of brick, colored concrete masonry (split faced or fluted), insulated concrete formed (ICF) with cement board (Hardi-plank), EIFS surface, concrete tilt-up with colored stain or painted surface. The front or street facing elevation of any building shall be a minimum 30% brick, colored concrete masonry (split faced or fluted), insulated concrete formed (ICF) with EIFS surface or concrete tilt-up with colored stain surface.
 - iii. **Other Elevations.** On the 3 remaining sides other than the front or street facing side, any material shall be permitted provided it is compatible with the architectural quality of the overall development of the Business Park and it is low maintenance. Elevations facing Interstate 80 are encouraged to have openings with glass or glazing; 2 color facade treatments are also

acceptable. Overhead doors are not permitted along Interstate 80 facing elevations unless screened with landscape material or behind berms or grade as indicated within these covenants. Ribbed metal siding (vertical or horizontal) shall be allowed to cover a maximum of 70% of the building elevations.

- iv. **Colors.** Exterior paint colors and other finish shall be compatible with an upscale business development. No loud, unnatural or obnoxious colors shall be permitted. Recommended color families:

Sky tints-toward cool blue/gray-cast neutrals
Forest tints-green cast neutrals
Sun tints-toward yellow-cast neutrals
Earth tints-toward beige and natural tones
Desert tints-toward warm, sand and clay tones

Bright accent colors may be approved at Developer's discretion as part of corporate national design concepts or accent colors.

- c. **Roof.** Pitched roofs (3/12 minimum) are recommended with a 12" overhang or greater required at 50% of building. Hip style roof is recommended, but not required. Maximum vertical rise at roof ridge is 10'. If building width exceeds 80', low slope roof may be used in conjunction with pitched roof around perimeter. Radiuses or other roof forms similar in scale and slope to above are acceptable.

- i. **Materials.** Standing seam or ribbed metal, concrete, clay or metal shingles shall be permitted. Asphalt shingles (300# Horizon style minimum) may be approved at Developer's discretion. Colors shall be as indicated in paragraph 5.b.iv hereof, unless otherwise approved by Developer. Galvanized metal shall not be permitted for roof and wall materials, unless otherwise approved by Developer.

- d. **Building Appurtenances.** Air conditioning condensers and heat pumps should be screened from the street/parking view with plant material or be screened using materials similar to building elevations or roof.

6. **GENERAL STANDARDS FOR IMPROVEMENTS OTHER THAN BUILDINGS:**

The following general standards shall be satisfied in the construction and installation of improvements and structures other than a building. Written approval from the Developer for improvements and structures other than buildings is required and shall comply with these standards.

- a. **Fencing.** Fencing shall be minimal maintenance materials such as a minimum chain link, brick or concrete masonry, wrought iron, aluminum, steel or vinyl construction; no chain link with slats shall be permitted. These materials shall be used for refuse collection and dock area screening.

- b. Accessory Structures. All accessory structures or improvements shall be compatible with the quality of the building on the Lot and the overall design of the Business Park.
- c. Lighting.
 - i. Parking Areas. Parking lighting, if installed in large areas, shall conform to the zoning design standards for parking lots as adopted in the City's Municipal Code.
 - ii. Buildings. Ground mounted metal fixtures oriented to highlight building facades and entrances are encouraged. Ground mounted bollards used for pedestrian way lighting should be of same lamp type as facade lighting. Wall mounted downlights at 9' to 15' above are encouraged, with or without diffusing lense. Uplighting may also be included as a feature of the wall mounted downlight. Extended arm fluorescent sign lighter fixtures shall be used only with prior approval of the Developer. Wall packs mounted on the building shall be the "Performance" type with cut-off lenses. Forward throw version lenses shall be low cut-off angle variety.
 - iii. Dock Areas. Lighting fixtures are strongly encouraged at dock wall and personnel doors. Recommended mounting height shall coordinate with other luminaire heights on building. Mounting luminaire between overhead doors is preferred method. Where dock canopies are used, 8' strip fluorescent luminaires may be used if a glare skirt is installed across face of canopy, minimizing glare to public traffic.
- d. Signs. Signs shall comply with the City's code and zoning regulations and the standards set forth in Attachment A hereto, which is incorporated herein by this reference.
- e. Landscaping. All landscaping plans, other than the installation of turf grass, shall require the Developer's approval and shall meet the standards set forth in Attachment B hereto, which is incorporated herein by this reference.
- f. Parking Lots. All parking, curb, walk and facilities shall be of concrete subject to Developer's right to waive the requirement on large or temporary facilities.

7. GOVERNMENTAL REQUIREMENTS: All buildings and other improvements within the Properties shall be constructed in conformity with the requirements of the applicable building codes of the City. Public sidewalks and street trees shall be installed during the construction of any building as required by the City. The titleholder of any Lot shall at all times keep the Lot, buildings and other improvements in a safe, clean, wholesome condition and comply in all respects with all government, health, fire and public ordinances, requirements and regulations. In the event any titleholder fails to comply with those requirements, then the Association may, after 10 days written notice, enter upon the Lot and make any and all

corrections or improvements that may be necessary to meet such standards, all at the sole expense of the noncompliant titleholder of the Lot.

8. **OUTSIDE STORAGE.** No article of merchandise or other material shall be kept, stored or displayed outside a building, unless it is screened by fences, walls or plantings. In no event shall any part of any open Lot be used for long-term storage or abandonment of any property that is not reasonably screened from view; any such storage area abutting Interstate 80 shall be 100 percent screened from view. In the event plantings of live material are used to provide screening, this provision shall be reasonably interpreted so that 100% screening is not immediately required but would occur over 5-8 years as the plant material grows and matures.

9. **TEMPORARY STRUCTURES:** No partially completed temporary building and no trailer, tent, shack or garage on any Lot within the Properties shall be used as a permanent place of business or used for a temporary business location except during construction of a permanent business building.

10. **NUISANCE:** No noxious or offensive activity shall be conducted or permitted upon any Lot within the Properties, nor anything which is or may become an annoyance or nuisance to the Business Park or which endangers the health or unreasonably disturbs the ability of the occupants of an adjoining Lot to conduct its business.

11. **CONSTRUCTION VEHICLES:** Developer may designate and enforce locations through and over which all construction vehicles shall enter and exit the Business Park during development.

12. **NORTH CREEK BUSINESS PARK ASSOCIATION:** Every person or entity who owns a Lot within the Properties shall be a member of the Association. With regard to any Lot which is included within a condominium regime, the condominium association for such condominium regime shall be the member of the Association and shall represent all persons or entities owning property within the condominium regime. Any person or entity who holds an interest in a Lot within the Properties merely as security for the performance of an obligation shall not be a member of the Association.

13. **MANAGING AGENT:** The Developer or the Association may contract for the performance of any of the Association's rights, obligations or responsibilities with any entity or individual (a "Managing Agent"). The Managing Agent shall exercise such authority which may be granted by the Developer or Association. The fee charged by the Managing Agent shall be a common expense of the members of the Association.

14. **MEMBERSHIP:** The Association shall have two classes of membership:

Class A membership shall include all members of the Association, except the Developer and any successor in interest of the Developer. Each Class A member of the Association shall be entitled to all the rights of membership and to one vote for each 1,000 sq. ft. of area of the Lot or Lot(s) owned by the member, with a minimum of one vote. Notwithstanding anything herein to the contrary, there shall be no fractional voting interests. Any member which is a condominium association shall represent all persons or entities owning property within the condominium regime and shall be entitled to one vote for each 1,000 sq. ft. of

area included within the condominium regime. The individual owners of property contained within the condominium regime shall not be eligible for membership in the Association and shall have no voting rights separate and apart from those exercised on such property owner's behalf by the condominium association.

Class B membership shall include only the Developer and any successor in interest of the Developer. The Class B member shall be entitled to five times the votes which it would qualify for as a Class A member. However, the Class B membership shall be converted to Class A membership when the total number of votes entitled to be cast by Class A members equals or is greater than the total number of votes entitled to be cast by the Class B member.

Any member in default of payment of any assessments provided for in these Restrictive Covenants shall forfeit any voting privileges until the default is cured. Any member of the Association which is a condominium association shall be responsible for collecting from its members and remitting to the Association all dues and assessments owed by the owners of the property comprising the condominium regime. If any such condominium association is in default of payment of any assessments provided for in these Restrictive Covenants, such condominium association shall forfeit any voting privileges until the default is cured.

15. **CONVEYANCE OF COMMONS:** Developer shall convey any Commons to the Association, free from encumbrance, but subject to easements and restrictions then of record and any requirements of the City. Such conveyance may be made by Developer at any time, but shall, in any event, be made no later than five years after the conversion of its Class B membership to Class A membership.

16. **USE OF COMMONS:** Each member of the Association shall have the right to use and enjoy the Commons as established by the rules, regulations and requirements of the Association and shall have an easement upon the Commons for the use thereof, which shall be appurtenant to the interest requisite for membership. All persons or entities owning property in a condominium regime which is included in the Properties shall have the same right to use and enjoy the Commons, shall have the same easement upon the Commons for the use thereof, and shall be subject to the same rules, regulations, conditions and limitations concerning the Commons as the members.

17. **RIGHTS IN COMMONS:** The rights and easements of the members of the Association to the Commons shall be subject to:

- a. The right of the Association to borrow money for the purpose of improving the Commons and to mortgage the Commons. In the event of default, the mortgagee shall have the right, after taking possession of the Commons, to charge admission and other fees as a condition of the continued use of any facilities within the Commons by the members, and to open the facilities to a wider public until the mortgage debt is satisfied. Any mortgage of the Commons shall be approved by the affirmative vote of two-thirds of the total votes by the members of the Association entitled to vote, present in person or by proxy, at a regular meeting of the members

or at a special meeting of the members, if notice of the proposed mortgage is contained in the notice of the special meeting.

- b. The right of the Association to take any steps reasonably necessary to protect the Commons against foreclosure.
- c. The right of the Association to suspend the enjoyment of the facilities by any member for any period during which an assessment remains unpaid, and for a period not to exceed 30 days for any infraction of the published rules and regulations governing the use of the facilities.
- d. The right of the Association to dedicate or convey all or any part of the Commons to any public entity.

18. **MAINTENANCE OF LANDSCAPE SCREENS:** Each member of the Association who is the titleholder of a Lot on which any landscape screen, whether composed of structural or live plant material, which is installed as required by the City, shall be deemed to covenant to maintain the screen. Likewise, each person or entity who is a titleholder of property contained within a condominium regime which is included in the Properties shall be deemed to covenant to maintain any landscape screen which is installed on such person's or entity's property.

19. **GENERAL MAINTENANCE OBLIGATIONS:** Each member of the Association shall be responsible for the proper storage and disposal of all construction debris and materials associated with the construction of any improvements upon their Lot. Lots shall be periodically mowed and loose debris and materials picked up and properly stored to prevent them from being spread and blown throughout the Properties. Each member shall be responsible for the enforcement and monitoring of these obligations for all contractors and suppliers performing work upon their Lot. The Developer and Association shall have the right to develop, prepare, publish and enforce specific maintenance obligations relating to the appearance and upkeep of the buildings and improvements on any Lot, provided these obligations are enforced uniformly upon all Lots within the Properties. The owner of any property contained within a condominium regime which is part of the Properties shall be subject to the same requirements imposed under this paragraph upon a member.

20. **FAILURE TO MAINTAIN:** In the event any member fails or refuses to perform any required maintenance and upkeep of any landscape screen or the general maintenance obligations or the obligations under paragraph 7 hereof, the Developer or Association, after seven (7) days notice to the member in default, may perform the required work or maintenance. The actual cost of performing the work or maintenance, together with an administrative fee of \$25.00 or 10% of the cost of the work, whichever is greater, shall be the personal obligation of the member who is or was the owner of the Lot failing to perform their maintenance obligations, and shall bear interest at the rate of 14% per annum and, when notice of such obligation is filed with the Lancaster County, Nebraska Register of Deeds, shall be a lien upon the Lot assessed. The owner of any property contained within a condominium regime which is part of the Properties shall be subject to the same requirements imposed under this paragraph upon a member.

21. **ASSOCIATION RESPONSIBILITIES:** The Association shall provide such services to its members as they may determine. These services and responsibilities of the Association shall include, but are not limited to, the following:

- a. Maintenance of Commons. The Association covenants and each member of the Association, by the acceptance of a deed by which the interest requisite for membership is acquired, shall be deemed to covenant to maintain the Commons to the extent not otherwise provided for herein, which covenants by the members shall be satisfied by the payment of annual and special assessments for the administration, maintenance or improvement of, and insurance for, the Commons.
- b. Refuse Services. The Association may provide to each member refuse collection services through a single designated provider. The cost of these services may be either paid for by the members as part of their annual dues and assessments or paid directly by the members, as determined by the Association in its sole discretion.
- c. Lawn, Snow and Other Services. The Association may provide to any member lawn maintenance, snow removal or other services through designated providers at the request of two or more members. The costs of these services may be either paid for by the members requesting these services as part of their annual dues and assessments at the rates quoted the Association or paid directly by the members, as determined by the Association in its sole discretion.

22. LIEN OF DUES AND ASSESSMENTS: The lien of any dues or special assessment shall, until shown of record, be subordinate to the lien of any mortgage placed upon the Lot against which the assessment is levied.

23. ANNUAL ASSESSMENT AND LIENS: Annual dues and special assessments, other than for capital improvements, may be levied by the Board of Directors of the Association. Annual dues and special assessments shall be assessed against the members on a pro rata basis determined by the acreage of the Lots. Any special assessment for capital improvements may be rejected at any time within 30 days of the notice of the levy by the affirmative vote of a majority of the total votes by the members of the Association affected and entitled to vote, at a regular meeting of the members or at a special meeting of the members, if notice of a special assessment is contained in the notice of the meeting.

The members shall pay annual dues and special assessments to the Association or Managing Agent as billed. Each member's dues shall be determined on an annual basis for each fiscal year, prorating a fractional year which may occur by issuance of a building permit for any building. The annual dues shall be based upon the relative square footage ratio of the Lots within the Properties. The amount of annual dues shall be based upon an estimate of the Association's costs for administration, maintenance and improvement of, and insurance for, the Commons and each member shall pay the annual dues so established in advance. At the end of each fiscal year, a statement of the total operating costs of the Commons for the fiscal year may be presented to the members of the Association and the members shall pay any excess charge to the Association within thirty (30) days of the statement.

- a. Budgets. The Association or Managing Agent shall prepare, approve and make available to each member a pro forma operating statement (budget) containing: (1) estimated revenue and expenses on an accrual basis; (2) the amount of any cash reserves of the Association currently available for replacement or major repair of the Commons and for contingencies; (3)

an itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to, major components of the Commons; (4) a general statement setting forth the procedures used by the Association in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Commons; and (5) the cost of providing services to the Association's members as set forth in these Restrictive Covenants.

- b. Additional Charges. In addition to any amounts due or any other relief or remedy obtained against a member who is delinquent in the payment of any dues or assessments, each member agrees to pay such additional costs, fees, charges and expenditures (the "Additional Charges") as the Association or Managing Agent may incur or levy in the process of collecting from each member monies due and delinquent. All Additional Charges shall be included in any judgment in any action brought to enforce collection of delinquent dues or assessments. Additional Charges shall include, but not be limited to, the following:
- i. Attorney's Fees. Reasonable attorney's fees and costs incurred in the event an attorney(s) is employed to collect any dues, assessment or sum due, whether by suit or otherwise;
 - ii. Late Charges. A late charge in an amount to be fixed by the Association to compensate the Association for additional collection costs incurred in the event any dues, assessment or other sum is not paid when due or within any "grace" period. The late charge shall not exceed ten percent (10%) of the delinquent assessment or twenty dollars (\$20), whichever is greater.
 - iii. Costs of Suit. Costs of suit and court costs incurred as allowed by the court;
 - iv. Filing Fees. Costs of filing notice of lien in the Office of the Register of Deeds;
 - v. Interest. Interest on all dues and assessments at the rate of 14% per annum, commencing thirty (30) days after the assessment becomes due; and,
 - vi. Other. Any other costs that the Association may incur in the process of collecting delinquent dues and assessments.
- c. Lien. The dues and assessments shall be the personal obligation of the member who is the owner of the Lot assessed at the time of the assessment and, when shown of record, shall be a lien upon the Lot assessed. The dues and assessments of any member which is a condominium association shall be the joint and several obligation of the condominium association and all of its members and, when notice of such obligation is filed with the Lancaster County, Nebraska Register of Deeds, shall be a lien upon all properties contained within the condominium regime.

d. **Fines.** The Association may create a schedule of fines for violation of Association rules and regulations, which fines shall be treated and billed as a special assessment to the offending member's Lot.

24. **ADDITIONS:** The Developer may add additional contiguous or adjacent real estate to the Properties or the Commons, at any time, without the consent of the members of the Association. Additions shall be made by the execution and recordation of Restrictive Covenants upon the additional real estate, making the addition subject to these Restrictive Covenants. These additions may include a class of Limited Commons (i.e. Commons that benefit more than one member of the Association but not all members). The costs of maintaining and improving any Limited Commons shall be borne solely by those members having the right to use the Limited Commons.

25. **AMENDMENTS:** These Restrictive Covenants shall run with the land and shall be binding upon and enforceable by the Developer, New River and all persons claiming under the Developer or New River. These Restrictive Covenants may be terminated or modified, in writing, by the affirmative vote of two-thirds of the total votes by the members of the Association entitled to vote, at any time, or by the Developer at any time within five (5) years of the date these Restrictive Covenants are recorded.

26. **ENFORCEMENT:** The enforcement of these Restrictive Covenants may be by proceedings at law or in equity against any person violating or attempting to violate any provision hereof. The proceedings may be to restrain the violation, or to recover damages and, by the Association or Developer, may be to enforce any lien or obligation created hereby.

27. **SEVERABILITY:** The invalidation of any one of these Restrictive Covenants shall not affect the validity of the remaining provisions hereof.

Dated: Aug 28, 2008.

LINCOLN NORTH CREEK, L.L.C.

By: 
Steven Knobel, Manager

STATE OF Nebraska)
COUNTY OF Lincoln) ss.

The foregoing instrument was acknowledged before me this 28th day of August, 2008, by Steven Knobel, Manager of Lincoln North Creek, L.L.C., a Nebraska limited liability company, on behalf of the company.




Notary Public

NEW RIVER LINCOLN NORTH, LLC

By: [Signature]
Name: DAVID MARTIN
Title: PRES

STATE OF KANSAS)
COUNTY OF JOHNSON) ss.

The foregoing instrument was acknowledged before me this 27th day of AUGUST, 2008, by David Martin, president of New River Lincoln North, LLC, a Kansas limited liability company, on behalf of the company.

BRANDON C. HANSEL
Notary Public - State of Kansas
My Appt. Expires 11-7-2011

[Signature]
Notary Public

City of Lincoln Approval

The Properties and Commons described in the foregoing Restrictive Covenants for the North Creek Business Park are subject to the North Creek Trade Center Conditional Annexation and Zoning Agreement, dated May 2, 2001, which was recorded with the Register of Deeds of Lancaster County, Nebraska on July 5, 2001, as Instrument No. 2001-037262 (the "Agreement"). The foregoing Restrictive Covenants for the North Creek Business Park are consistent with the requirements of the Agreement, and pursuant to the authority granted to the undersigned in paragraph 4 of the Agreement, are hereby approved.

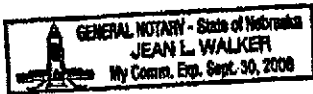
Dated: August 25, 2008

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

By: Marvin Skrou
Name: Marvin Skrou
Title: Planning Director

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 25 day of August, 2008, by MARVIN S. SKROUT, Planning Director of The City of Lincoln, Nebraska, a municipal corporation, on behalf of said municipal corporation.



Jean L. Walker
Notary Public

Agreement to be Bound

The undersigned holder of that certain lien against the property of the Developer, which lien is recorded in the office of the Register of Deeds of Lancaster County, Nebraska as Instrument No.: 2007060863 (the "Lien"), hereby subordinates its rights under the Lien to these Restrictive Covenants, acknowledges that its rights under the Lien are subject to these Restrictive Covenants and agrees to be bound by these Restrictive Covenants.

Pinnacle Bank

By: *Lynette Nelson*
Name: Lynette Nelson
Title: Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 27th day of August, 2008, by Lynette Nelson, Vice president of Pinnacle Bank, a Nebraska banking corporation, on behalf of the corporation.

Loures Meade
Notary Public



Agreement to be Bound

The undersigned holder of that certain lien against the property of the New River, which lien is recorded in the office of the Register of Deeds of Lancaster County, Nebraska as Instrument No.: 2005014685 (the "Lien"), hereby subordinates its rights under the Lien to these Restrictive Covenants, acknowledges that its rights under the Lien are subject to these Restrictive Covenants and agrees to be bound by these Restrictive Covenants.

Farmers Bank & Trust, N. A.

By: *Randy Cobb*
Name: RANDY COBB
Title: VICE PRESIDENT

STATE OF Kansas)
) ss.
COUNTY OF Johnson

The foregoing instrument was acknowledged before me this 22nd day of August, 2008, by Randy Cobb, _____ of Farmers Bank & Trust, N. A., a Vice President, on behalf of the corporation.

State of Kansas - Notary Public
Susan Bower
My Commission Expires 9/17/08

Susan Bower

Notary Public

Attachment A

NORTH CREEK BUSINESS PARK SIGN RESTRICTIONS

All applicable sections of the City of Lincoln Municipal Code shall apply to the installation of signs in the North Creek Business Park, with the following additional restrictions, which shall govern, unless such additional restrictions are modified, varied, or waived in writing by the Developer:

1. Only one ground or pylon sign shall be allowed per lot. Such signs shall be set at a consistent height. The height of the horizontal or vertical mounting base shall be adjusted accordingly to maintain visual consistency. The maximum height shall be 30 feet.

2. Pylon signs shall be in lieu of the permitted pole signs, and shall have a solid mounting base. "Pylon sign" shall mean a sign which meets the definition of "pylon sign" in the Lincoln Municipal Code, and also meets the design criteria contained herein. No sign copy shall be permitted on the base of any pylon sign.

3. The mounting base and the sign face shall be proportional. The mounting base shall have a height to width ratio of 5:1 for pylon signs, and a height to width ratio of 1:2 for ground signs.

4. Materials, height, placement, and all other details of the sign system shall be subject to the approval of the Developer. The mounting base of pylon or ground signs shall be of nonreflective material which is either the same or of similar appearance as the building with which the sign is associated.

5. Roof Signs. No roof signs are allowed. Vertical monument signs as defined above may be approved by Developer.

6. Wall Signs.

a. One on-premises building identification wall sign shall be permitted per building. The sign area of such wall sign shall not exceed ten percent of the building's largest facade, or 100 square feet, whichever is lesser.

b. In addition to the above, each tenant shall be allowed one on-premises entrance wall sign not to exceed ten square feet of sign area. Tenant wall signs shall be located no further than fifty feet from a building entrance door.

7. Off-Premise Signs. No off-premise signs shall be permitted.

Attachment B

BUSINESS PARK
NORTH CREEK TRADE CENTER LANDSCAPE COVENANTS

1. **Objective:** The standards set forth herein are intended to promote the establishment of a distinct character for the North Creek landscape, providing visual continuity between areas and acknowledging the need for variation and unique treatment in specific locations. In addition, the standards are intended to guide the design and maintenance of the landscape to provide an attractive, well-maintained development; enhance and preserve natural areas that reflect the existing (original) character of the site; and to minimize the adverse impact of large paved areas, utilities, and service bays. Finally, the standards are intended to provide continuity with the proposed entry corridor guidelines, and to help establish the quality of that important public landscape.

2. **Conceptual Plan:** The North Creek development will be divided into zones as defined in the following paragraphs. The zones are intended to guide the design and implementation of appropriate landscapes (and choice of materials) for each part of the site. The development shall be divided into a maximum of four zones for purposes of developing appropriate landscape plans and maintenance schedules. In general, the zone closest to each primary building can be treated in a more refined or structured manner. Many of the same materials can be used in different zones, but can be managed in distinct ways. Primary zones can be treated as natural landscapes; perimeter zones cannot be formally managed.
 - a. **Primary Zone:** The primary zone is defined as the area surrounding the primary buildings on the site. It generally includes the entire landscape surrounding each building. It may be designed and managed to combine refined or structured landscape elements with naturalized or native materials to provide visual and physical continuity with the perimeter and corridor zones. Plant materials may include both native and hardy introduced overstory (shade) trees, understory (ornamental) trees, evergreen trees and shrubs, deciduous shrubs that can either be allowed to grow in their natural form or pruned, perennials, grasses, and annuals. Some plants may be formally managed; others may be allowed to naturalize. Unusual non-native plants, especially those with individual specimen value, should be chosen and located with care, taking into consideration first the amount of maintenance that will be required to keep them healthy. This is the only zone where extensive use of annual beds or unusual non-native plants with sensitive growing requirements will be allowed. Water-conserving irrigation for purposes of plant establishment or emergency drought use only should be used in this zone. Turf options include managed buffalograss and turf-type tall fescue.

 - b. **Perimeter Zone:** The perimeter zone is defined as the area abutting the boundaries of the site, unless otherwise included in the corridor zone or streetscape zone. It should be designed and developed as native and naturalized landscape, with limited use of plant materials that will require more than minimal future maintenance. Formal pruning of plant materials ("shaping") is not allowed in this zone; pruning shall be done for corrective or structural purposes only. Plants that naturalize readily should be encouraged in appropriate locations to reduce the amount of intensely managed turf. Native plants (and improved varieties thereof) should be chosen over introduced materials. Annual beds will not be allowed in this zone. Water-conserving irrigation for purposes of plant establishment or emergency drought use only should be used in this zone. Turf options include buffalograss and short and tallgrass prairie mixes.

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- c. Corridor Zone:** The corridor zone is defined as the area adjacent to the interstate property line, contiguous from one portion of the site to another. It should be designed and developed to provide visual and physical continuity with the "Nebraska-style" landscapes proposed for the interstate corridor, and to serve as a prototype for future developments along the interstate. Attention to appropriate screening and the use of plant materials to focus views toward prominent building features and natural elements, planting in masses that will naturalize and blend with one another, and the use of a large proportion of native plants are a part of the landscape development of this zone. Introduced materials should be used only if they blend aesthetically and in terms of their care requirements with the native species. Water-conserving irrigation for purposes of plant establishment or emergency drought use only should be used in this zone. Annual beds are not allowed in this zone. Turf options include naturalized buffalograss and shortgrass prairie mixes.
- d. Streetscape Zone:** The streetscape zone is defined as the area adjacent to the primary arterial street(s) serving North Creek development. It should be designed and developed to be consistent with the street tree requirements of the City of Lincoln, and further enhanced with shrubs, perennials and grasses in large masses to emphasize entrance points and give the development a distinct character. It should also complement the surrounding neighborhoods. Plant materials may include both native and hardy introduced overstory (shade) trees, understory (ornamental) trees, evergreen trees and shrubs, deciduous shrubs that can either be allowed to grow in their natural form or pruned, perennials, grasses, and annuals. The boulevard plantings should be designed to have visual continuity with the plants in adjacent zones, which can be accomplished by repeating some of the species in each location and using the same type of turf. A great variety of plant materials is acceptable, if designed to provide rhythm and continuity. Plants that naturalize readily should be used with caution in this zone. Turf options include managed buffalograss and turf-type tall fescues.
3. ~~THIS ITEM IS NOT USED:~~
4. **Parking Lot Landscaping:** The setback between parking lots and streets shall be landscaped in accordance with the secondary zone identified previously. It shall meet or exceed the design standards for the City of Lincoln. Where possible berms with a slope not to exceed 3:1 shall be used to screen parked cars. Such berms shall be further enhanced with masses of plant material and specimens as appropriate.
5. **Unimproved Areas:** All areas not paved or built upon must be landscaped in accordance with the zoning concept outlined previously. Large uninterrupted areas of gravel, wood mulch, or bare soil are prohibited.
6. **Irrigation Systems:** All irrigation systems are to be below ground and fully automatic. They must comply with applicable building code requirements. All backflow valves are to be located within the confines of the building or a support structure. The use of drip irrigation is encouraged in planting beds.
7. **Plant Materials Variety:** The attached plant list is intended as a starting point for the selection of a variety of plant materials. The plants included in the list are representative of the types of materials that are appropriate for each zone. All landscape plans must be approved prior to the installation of materials.
8. **Preservation of Existing Vegetation:** Where existing vegetation occurs, it should be preserved if possible. The intrinsic environmental values associated with the wetlands and woodlands add to the distinct character of the development.

Attachment B

9. Installation and Maintenance: The Tenant shall be responsible for the installation and proper maintenance of all landscape materials in accordance with the maintenance standards defined by the Developer.