

4/29/99

**Declaration of Protective Covenants
For
Northgate Business Park**

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ATTACHMENTS

Exhibit A - Legal Description of Northgate Business Park

Exhibit B - Map of Northgate Business Park

**DECLARATION OF PROTECTIVE COVENANTS
FOR
NORTHGATE BUSINESS PARK**

THESE PROTECTIVE COVENANTS ("Protective Covenants") are made this ____ day of _____, 1999 by MLG Investments LLC ("Declarant");

W I T N E S S E T H

WHEREAS, Declarant (is the owner of the property described on Exhibit A attached hereto, which property is located in the Village of North Fond du Lac, Wisconsin; and

WHEREAS, Declarant intends to create a high-quality office, industrial and commercial mixed-use development on the property; and

WHEREAS, Declarant desires that the investment of each subsequent owner of any part of the property be protected and enhanced; and

WHEREAS, an orderly and attractive grouping of well-designed, constructed and landscaped buildings contributes to that objective; and

WHEREAS, subjecting such property to restrictions, covenants, and reservations is instrumental in achieving that objective.

NOW, THEREFORE, Declarant hereby declares that the real property hereinafter described shall be held, sold, conveyed, transferred, used and improved only subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall bind and inure to the benefit of the Declarant, and its successors and assigns, and to all parties hereafter having any interest in the property:

1. The Property

The property described on Exhibit A attached hereto, shown on Exhibit B attached hereto and to be known as Northgate Business Park (the "Park") is made subject to the provisions of these Protective Covenants. The Protective Covenants declared herein shall run with the land and shall affect the Park and each part thereof and any interest in the Park or any part thereof

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for all purposes and shall be binding upon and inure to the benefit of the landowners and all owners, lessees, and occupants of property in the Park, and their successors and assigns. Owners shall be fully responsible for compliance by their tenants with the provisions of these Protective Covenants.

2. The Business Park Association

2.01 Formation and Function:

The Declarant shall incorporate a Wisconsin non-profit corporation called Northgate Business Park Association, Inc. (the "Association"). All owners ("Owner") of any separate tract or parcel of land ("Site") in the Park shall be members of the Association. The Association, through its Board of Directors, will be responsible for enforcing these Protective Covenants and maintaining any common areas and improvements in the Park and generally administering the Association.

2.02 Board of Directors

The Association will be governed by a board of five (5) directors (the "Directors") who will initially be designated by the Declarant. The qualifications, election and duties of Directors shall be as set forth in the By-Laws of the Association.

2.03 Declarant Control

Notwithstanding any other provisions contained in the By-Laws, Declarant, its successors and assigns, shall have the right at its option to appoint and remove the members of the Board of Directors and officers of the Association and to amend the By-Laws or rules and regulations of the Association until the earlier of: (a) thirty (30) years after the first sale of a Site in the Park by Declarant or (b) such earlier time as may be determined by Declarant. Each owner of a Site in the Park shall be deemed by acceptance of any deed to any Site to agree, approve and consent to the right of Declarant to so control the Association.

2.04 Northgate Business Park Review Board:

The Declarant shall designate the Northgate Business Park Review Board (the "Review Board") which shall exist for the term of these Protective Covenants and shall review and approve, conditionally approve or disapprove any structure or improvement of any kind, the construction or placement of which is proposed upon any Site within the Park, including, without limitation, any building, paving, landscaping (including screening, walls and fences) or other improvement or modifications thereto. If the Review Board disapproves any such structure or improvement, it shall specify the deficiency in the submitted Application Plans (as defined in Section 4 herein) and the changes necessary to the Application Plans in order to obtain approval from the Review Board.

Before construction or placement of any of the foregoing shall begin on any Site, all plans and specifications therefore shall be submitted to and approved in writing by the Review Board in accordance with Section 4 herein.

Membership of the Review Board shall consist of at least three (3) persons, at least one (1) of whom shall be an architect, a person with building construction experience or a land planner. The Declarant shall designate the Review Board Members, who shall serve in perpetuity unless and until such time as they may be replaced by the Declarant or resign. Upon the resignation of a member of the Review Board, the replacement member shall be appointed by the Declarant.

Any party aggrieved by a decision of the Review Board shall have the right to make a written request to the Board of Directors for review of said decision. The Board of Directors shall accept or decline such request in writing within 15 days after receipt of same. The decisions of the Review Board accepted for review may be overruled by the Board of Directors; the determination of the Board of Directors shall be final and binding in all such review matters.

2.05 Membership Voting:

For any matter to be voted upon by the Association membership, each Owner shall have the number of votes, including fractions thereof, equal to the number of Buildable Acres, as defined in Section 5.02 below, including fractions thereof, owned by said Owner in the Park. When a majority or percentage vote is required under these Protective Covenants, the requirement shall be calculated using the total number of votes available in the Park.

3. Use Restrictions

3.01 Permitted Uses:

All building sites within the Park shall be used solely for office, commercial, retail, laboratory, research, light manufacturing and processing, warehousing, wholesale distribution and service facilities and similar and ancillary uses approved by the Review Board and permitted under the Village of North Fond du Lac Zoning Ordinance.

3.02 Precluded Uses:

No mini-warehousing, heavy manufacturing, junk or salvage, animal processing, recycling or incineration facility will be permitted except on such Sites, if any, as the Review Board, in its sole discretion, shall first approve. Uses prohibited under the Village of North Fond du Lac Zoning Ordinance are prohibited.

3.03 Additional Precluded Uses:

No nuisance or offensive or noxious odors, fumes, dust, smoke, noise, vibration, pollution, glare or other nuisance, or hazardous uses by reason of excessive danger of fire or explosion shall be permitted in the Park. Determinations of nuisance shall be made by the Board of

Directors upon the basis of written complaint or on its own initiative. Standards for nuisance or offensive and noxious use shall be those of the Village of North Fond du Lac, Fond du Lac County, State of Wisconsin, and the United States of America. In addition, no lighting shall be permitted on any Site which, in the judgment of the Review Board, could serve as a nuisance or hazard to other sites or the general public, as described in Section 5.13.

4. Application Plans and Approvals

4.01 Application Procedure

Prior to constructing, expanding or altering of the shape, size or appearance of any building or other structure or improvement in the Park, or changing the use of any existing building or Site, the Owner shall submit to the Review Board for approval site and building plans and a written description of use and operations (the "Application Plans"). Each Owner shall obtain the services of an architect and/or an engineer in the development of the Application Plans and shall meet with a representative of the Review Board prior to preparation and submittal of the Application Plans. No building, structure, or other improvement shall be constructed, altered, or placed upon any Site until the appropriate Application Plans shall have been first approved in writing by the Review Board.

Application Plans shall include the number of copies of each of the following as required by the Review Board:

- Scaled site plan, showing building location and setbacks (including the location of any planned building expansion), parking layout and setbacks, driveway and access locations, loading docks, site lighting and coverage, utility boxes and transformers and signage. Also, details of lighting and signage.
- Drawings showing all exterior building elevations, building heights and roof mounted equipment and utility meters (including size, location and proposed screening) and indicating building materials and colors. Also, a colored rendering or building elevations (showing the actual proposed colors) and samples of building materials and colors.
- Floor plan(s) indicating use.
- Landscaping plan, including sizes, quantities and types of plantings.
- Location, size and proposed screening for outside waste and recycling containers and the size and type of the proposed containers.
- Erosion control, grading and storm water drainage plans, including any existing trees to be removed and including all proposed water impoundments and finished grade levels.
- Written description of proposed use and operation, including number of employees, workshifts, products produced and/or services provided, manufacturing processes,

materials handled (including anticipated truck traffic), any hazardous materials used in operations (including proposed safety precautions), any noise emitted and any air, water or solid waste material generated (including proposed methods for storing and disposing).

All plans submitted shall include the preparer's name, the date of preparation and the dates of any revisions. Any revisions to approved Application Plans must be approved in writing by the Review Board.

4.02 Review Board Variance:

Upon written application to it, the Review Board shall have the authority to waive or vary these Protective Covenants when such waiver or variance will conform to the standards of the Park and where exact adherence to a standard will create an undue burden on the owner of the affected Site. Such waivers or variances shall be in writing, shall apply only to these Protective Covenants and shall not pertain to Village of North Fond du Lac Zoning Ordinance.

4.03 Guidelines:

In order to assist Owners in complying with these Protective Covenants, the Association or the Review Board may publish guidelines ("Guidelines") from time to time. The Guidelines may pertain to any matters included within the scope of review described in Section 4.01 above. The Guidelines may be updated at any time, in the sole discretion of the Association or the Review Board, to reflect developments in applicable technology or to include changes deemed necessary or advisable, and shall be available to any Owner upon request. To the extent such Guidelines are published, approval of Application Plans by the Review Board shall be in accordance with the Guidelines as updated from time to time. However, the Guidelines shall not constitute amendments or modifications of these Protective Covenants, and in the event of any conflict or inconsistency, these Protective Covenants shall control.

5. Site Restrictions

5.01 Designation of Sites:

A "Site" is a parcel of land in the Park (a) that has been conveyed to a purchaser other than Declarant or (b) upon which Declarant intends to construct a building.

5.02 Land/Building Ratio:

The initial construction on each Site shall equal or exceed the following minimums for the following types of facilities unless otherwise approved in writing by the Review Board:

<u>Type of Facility</u>	<u>Minimum Square Feet/Buildable Acre</u>
Retail	3,000
Office	4,000
Industrial	5,000

“Office” facility shall mean a facility in which more than thirty percent of the floor space is intended for use as office space. The initial construction on a Site used for office or industrial purposes shall in no event be less than 5,000 square feet, unless otherwise approved in writing by the Review Board. "Buildable Acre" shall mean all areas of the Park except those areas designated as "Greenspace" on Exhibit B. If and when the Declarant adds additional property to the Park pursuant to Section 17, the Declarant may designate any portion of such property as "Greenspace". No more than 80 percent of any Site in the Industrial Area shall be covered with buildings, surface pavement, or other covering materials which are impervious to surface water absorption unless otherwise approved in writing by the Review Board.

5.03 Building Setbacks:

Building setbacks shall comply with Village of North Fond du Lac Zoning Ordinance. No part of any building or other structure on a Site used for an office or industrial facility shall be located within the following distances from the following property lines of the Site, unless otherwise approved in writing by the Review Board:

<u>Property Line</u>	<u>Distance (Feet)</u>
Abutting a public street	50
Not abutting a public street	25

5.04 Parking Setbacks:

No parking on a Site used for an office or industrial facility shall be allowed within the following distances from the following property lines of the Site unless otherwise approved in writing by the Review Board:

<u>Property Line</u>	<u>Distance (Feet)</u>
Abutting a public street	20
Not abutting a public street	15

Curbs shall be considered as part of the parking area for purposes of complying with parking setback requirements.

5.05 Building Height:

No building shall be higher than as set forth in the Village of North Fond du Lac Zoning Ordinance.

5.06 Storage:

No fuel or chemical storage tank that is not in compliance with applicable Federal, State and Local laws and regulations shall be allowed in the Park. No outdoor storage of waste or recycling containers or any articles, goods, materials, finished or semi-finished products, incinerators, storage tanks, or any other items shall be permitted except as provided in Section 7.01 below.

5.07 Fencing:

No fences shall be constructed on any Site without the written approval of the Review Board. Fencing, where permitted, shall be solely for purposes of screening, security and landscape enhancement. Fencing shall be constructed only of permanent materials such as pressure-treated wood, masonry, or metal, and shall be approved by the Review Board in every instance. Plantings shall be provided along all fencing where such fencing is visible from any street.

5.08 Temporary Structures:

No temporary structures or trailers are permitted without prior written approval of the Review Board, except those belonging to construction companies during periods of construction.

5.09 Ancillary Structures:

No water tower, storage tank, processing equipment, solar collector, telecommunications equipment, cooling tower, satellite disks or other ancillary structure or outside equipment shall be constructed, erected or placed in the Park without the prior written approval of the Review Board.

5.10 Freight Handling:

All freight loading and unloading shall be handled on those sides of a building which do not face a street except for situation where the size of the building and constraints of the site make a side location unfeasible. Exceptions such as the condition in the preceding sentence may be made at the sole discretion of the Review Board. If an exception is made, any loading dock facing a street must be at least 100 feet from the street and screened to the Review Board's satisfaction.

5.11 Signs/ Mailbox:

All signs must be approved in writing by the Review Board. On-site directional signage will be allowed in any area needed to control traffic or parking provided such signage has received

written approval from the Review Board. The Association shall have the right to enforce uniform sign and mailbox standards throughout the Park.

5.12 Canopies:

No truck canopies with visible wall hangers will be permitted without written approval from the Review Board. Design of canopies shall be in keeping with the design of the building.

5.13 Lighting:

All exterior lighting must be approved in writing by the Review Board. Lighting of a Site shall be of a design and height and shall be located so as to illuminate only the Site. No flashing, traveling, animated, or intermittent lighting shall be visible from the exterior of any building, whether such lighting is of temporary or long term duration. All lighting fixtures shall be maintained as originally approved. In addition, no lighting shall be permitted on any site which, in the judgement of the Review Board, would serve as a nuisance or hazard to other sites or to the general public. Lot lighting on street sides to be provided by pole mounted, down lighting fixtures.

5.14 Erosion and Sediment Control:

The drainage pattern on any Site shall not be changed significantly and no change in the drainage pattern onto lands adjacent to the Site shall be allowed. Specific erosion control, grading and storm water drainage plans shall be submitted as part of the Application Plans, and in addition to review and approval by the Review Board under Section 4 herein, must be approved by the Village of North Fond du Lac. Each Owner shall be responsible for 1) prevention of erosion of its Site, 2) control of runoff of silt debris or sedimentation from its Site onto adjacent drain systems or properties, 3) removal of any such runoff, erosion, or sedimentation and 4) repair of any damage to such Site or adjacent Site by such runoff, erosion or sedimentation. In the event that an Owner fails to comply with any of the foregoing obligations within 30 days after receipt of notice from the Association or from the Village of North Fond du Lac, the Association or Village may, in its sole discretion but without any obligation to do so, perform such obligations. If the Village performs the work, all costs incurred shall be assessed to the Owner and added to the Owner's property tax bill for the Site.

If the Association performs the work, and the cost of the work remains unpaid for 30 days after the Owner is billed therefor, such charges may be collected pursuant to procedures set forth in Section 15.

Storm drainage from the completely developed Site shall be in compliance with all Federal, State and local rules and regulations.

6. Parking and Landscaping

6.01 Parking Generally:

Each Site shall be provided with adequate paved off-street automobile parking as approved by the Review Board. No parking will be permitted on any street, driveway, or any place in the Park other than in approved parking spaces. Overnight parking of campers, mobile homes, boats, trailers and similar vehicles is prohibited unless prior written approval is obtained from the Association. Overnight parking of trucks and service vehicles shall be behind landscape screening so as to minimize visibility from the roadway unless prior written approval is secured from the Association.

6.02 Parking Ratio:

Unless otherwise approved by the Review Board, areas for current and future parking needs shall be provided as follows:

- a. For any Site used for an office or industrial facility, a minimum ratio of one off-street passenger car parking space for each 1,100 square feet of gross warehouse building area, for each 575 square feet of gross manufacturing, production or service building area, and for each 250 square feet of gross office building area; and
- b. Notwithstanding the foregoing, each Site shall have parking capacity adequate to serve the reasonably expected parking needs for the Site; and
- c. No parking shall be permitted at any time upon any street or driveway in the Park or on any unpaved area of a Site; and
- d. No continuing or extended use shall be made of a Site or any building constructed thereon which requires, or is reasonably expected to require, parking in excess of the capacity of the parking facilities available on said Site.

6.03 Parking Location:

No parking shall be allowed within the parking setbacks described in Section 5.04 above unless otherwise approved in writing by the Review Board.

6.04 Screening and Landscaping of Parking Areas:

In the event parking is approved within the parking setbacks described in Section 5.04 above, such parking shall be screened by berm and/or increased landscaping from public view in a manner approved by the Review Board. Paved parking areas larger than 20,000 square feet shall have landscaped areas equaling not less than 5% of the parking area intermittently placed throughout the parking area which serves to define vehicular and pedestrian circulation and provides additional screening of parking areas.

6.05 *Requirement to Pave Surfaces:*

All parking surfaces, driveways and loading areas shall be paved with a bituminous or concrete surface within ninety (90) days after occupancy or substantial completion of the building, whichever comes first, weather permitting. Curbs shall be provided to the extent required by the Review Board.

6.06 *Driveways and Loading Areas:*

Driveway and loading areas shall be large enough to accommodate all vehicle maneuvering on the Site. Truck turn-arounds are prohibited on all public streets in the Park. Driveway points of access to public streets must be approved by the Review Board. Areas on the site designed for truck/trailer storage are only allowed with approval of the Review Board and such approval will be contingent on such storage area being adequately screened as determined by the Review Board in its sole discretion.

6.07 *Open Spaces:*

All open spaces shall be paved, landscaped, or planted as lawns. Not less than one-half of the required building setback area from any dedicated street shall be devoted solely to lawns, trees, shrubs, and walkways of a design approved by the Review Board. Landscaping, as approved by the Review Board, shall be installed within ninety (90) days after occupancy or substantial completion of the building, whichever comes first, weather and appropriate planting seasons permitting.

6.08 *Greenspace:*

No buildings or improvements of any kind shall be permitted in the Greenspace and no buildings or improvements may damage or impair the Greenspace.

6.09 *Trees:*

Trees may be cut on any Site only to the extent needed for construction and/or landscaping purposes and only following written approval from the Review Board.

6.10 *Right to Act on Owner's Behalf:*

If, in the opinion of the Association, any Owner fails to complete all required parking and landscaping as shown on approved Application Plans within the time periods specified in Sections 6.05 and 6.07 above, either the Association or the Village of North Fond du Lac or both may give such Owner written notice and such Owner must, within thirty (30) days after such notice, complete such improvements in accordance with the notice. In the event that such Owner fails to complete such improvements within such 30-day period, the Association or the Village shall have the right and power, but not the obligation, to complete such improvements. If the Village completes such improvements, all costs incurred may be assessed to the Owner by the Village and added to the Owner's property tax bill for the Site. If the Association completes such improvements and the cost of the work remains unpaid for 30

days after the Owner is billed therefore, such charges may be collected pursuant to the procedure set forth in Section 15.

7. Screening:

7.01 Storage:

Waste and recycling containers shall be screened from view from the streets and adjacent sites by completely opaque screens unless otherwise approved in writing by the Review Board. No other articles, goods, materials, finished or semi-finished products, incinerators, storage tanks, or other items shall be kept outdoors or exposed to public view, or to view from adjacent sites. A variance may be granted by the Review Board upon written application and prior written approval, as provided in Section 4. In the event that such approval is granted, such items shall be screened from view by extended building walls or completely opaque screens, and under no circumstances shall such storage occur within 50 feet of any street or lot line.

7.02 Roof Mounted Equipment:

Roof mounted equipment shall be so located and/or screened and/or painted to minimize visibility from streets and adjacent Sites.

7.03 Loading Docks:

Outside loading docks shall be screened from view from the streets and adjacent sites by extended building wall, berm and/or landscaping.

7.04 Utility Connections:

Unless otherwise approved in writing by the Review Board, all utility connections, including all electrical and telephone connections and other installation of wires to buildings, shall be made underground from the nearest available source. No transformer, electric, gas or other meter of any type or other apparatus shall be located on any power pole nor hung on the outside of any building. All transformers and meters shall be placed on or below the surface of the property and where placed on the surface shall be screened and/or landscaped so as to minimize visibility from streets and adjacent sites. No electric utility boxes or transformers shall be located between a building and an abutting street.

8. Utility Easements

The Association shall have the right to grant easements for utilities within the building setback areas of any Site for the benefit of Owners of other Sites within the Park. Such easements shall be approved by a resolution of the Board of Directors and signed by officers of the Association and shall be recorded with the Register of Deeds for Fond du Lac County, Wisconsin.

9. Construction Obligation and Repurchase Rights

9.01 Construction Obligation:

Each Owner shall promptly begin, diligently pursue and ultimately complete construction of buildings and other improvements on its Site pursuant to approved Application Plans.

In the event that construction of improvements has not been commenced within one (1) year after the date of closing of (a) the initial sale of a Site by Declarant or (b) any resale by a subsequent Owner, then, until such construction is commenced, the Declarant shall have the option of repurchasing the Site from the Owner (the "Commencement Option").

Commencement of construction is defined to be construction of structural framing above ground level. To exercise the Commencement Option, the Declarant shall provide written notice of exercise of option (the "Notice") to Owner at Owner's last known address, including the date of repurchase closing. Notice shall be deemed to be received two days after deposit of the notice, postage prepaid, in the U.S. mail. If the Declarant has not exercised the Commencement Option within one hundred eighty (180) days after the expiration of one (1) year after Owner's closing, the Village of North Fond du Lac may exercise the option to repurchase the Site in the same manner (the "Village Commencement Option"). The repurchase, as described in Section 9.02 below, shall occur within sixty (60) days after delivery of the Notice on the date specified in the Notice.

If after commencing construction work on any Site, construction ceases for a period of one hundred eight (180) consecutive days at any time before the completion of construction as provided in Owner's approved plans ("Cessation of Construction"), the Declarant shall have the option to repurchase the Site from the Owner at any time within one (1) year after cessation of construction (the "Construction Option"). To exercise the Construction Option, Declarant shall provide written Notice of Exercise of Option as described above. If the Declarant has not exercised its Construction Option within one (1) year after the date of Cessation of Construction, the Village of North Fond du Lac may exercise the option to repurchase the Site in the same manner (the "Village Construction Option"). Repurchase, as described in Section 9.02 below, shall occur within sixty (60) days after delivery of the Notice on the date specified in the Notice.

If Owner does not complete construction of the improvements as described in the approved plans and obtain an occupancy permit for the improvements within three (3) years after the date of closing of Owner's purchase of the Site from Declarant or a prior Owner, the Declarant shall have an option to repurchase the Site from the Owner (the "Completion Option"). To exercise the Completion Option, Declarant shall provide written Notice as described above. If the Declarant has not exercised its Completion Option within one hundred eighty (180) days after the expiration of the three (3) year period, the Village of North Fond du Lac may exercise the option to repurchase the Site in the same manner (the "Village Completion Option"). Repurchase, as described in Section 9.02 below, shall occur within sixty (60) days after deliver of the Notice on the date specified in the Notice.

In the event the Declarant is not in existence or does not have the legal authority to act at the time a right of repurchase arises under this Section, and there is no person or entity in

existence as a successor or assign of the Declarant who may exercise the repurchase right, then the Village of North Fond du Lac shall have the right of repurchase without waiting for the expiration of the period of time for the Declarant's election to repurchase.

9.02 Terms of Repurchase:

If the Declarant or the Village of North Fond du Lac exercises any of the options described in Section 9.01 above, at repurchase closing the Owner shall tender a warranty deed free and clear of all liens and encumbrances except municipal and zoning ordinances, recorded easements for public utilities and these Protective Covenants in exchange for a sum equal to Owner's purchase price for the Site less any unpaid real estate taxes, the proration for the then current year's real estate taxes, and the title insurance premium. Owner shall provide the party exercising the option with a title insurance policy for the full amount of Owner's purchase price.

In the event of repurchase as provided in this section, Owner shall also be liable to the Declarant or the Village of North Fond du Lac, as appropriate, for all reasonable costs and expenses incurred in retaking and restoring the Site to marketable condition, and such costs and expenses shall be deducted from the amount of the purchase price paid to the Owner. Owner shall be deemed to consent to enforcement of the options described in Section 9.01 on the above terms by specific performance.

9.03 Right of First Refusal to Repurchase Vacant Land:

In the event that any Owner shall wish to convey any vacant portion of a Site or a vacant Site (the "Vacant Site") at any time within three (3) years after closing acquisition of the Vacant Site from Declarant, it shall first give the Declarant the right to purchase the Vacant Site at Owner's original purchase price and on the same terms and conditions as Owner's purchase. Within thirty (30) days after receipt of written notice that Owner wishes to convey a Vacant Site, Declarant shall notify Owner of its decision concerning repurchase. If Declarant decides to repurchase, closing shall occur within sixty (60) days after Declarant's receipt of Owner's written notice. If the Declarant is repurchasing a portion of a Site, the purchase price shall be prorated to reflect the total buildable square footage of the Vacant Site as compared to the total original buildable square footage of the Site purchased by Owner. "Buildable" shall mean that part of a Site not located within a Greenspace as described in Section 6.08 above.

10. Disclaimer of Liability

Neither the Association or the Review Board shall be liable to any person or entity submitting Application Plans for approval, or seeking any other approval under these Protective Covenants, or to any other person or entity affected by these Protective Covenants, by reason of engineering, architectural or technical errors or omissions in the Application Plans or materials submitted for approval. The Association and the Review Board shall not be deemed to provide architectural or engineering services in the review and approval of Application Plans, or in any other manner. Neither the Association or the Review Board shall be responsible for inspecting improvements during construction or for ensuring compliance with approved Application Plans. The Village of North Fond du Lac shall not be liable to any

person or entity as a result of (a) having approved of the form of this Declaration of Protective Covenants, or (b) the exercise or non-exercise of any right or discretion granted to the Village of North Fond du Lac under these Protective Covenants, or (c) the exercise of any authority granted or vested in the Village of North Fond du Lac by any applicable law, ordinance, rule or regulation pertaining to the Park.

11. Maintenance

11.01 General Site Maintenance:

Except as otherwise provided in Section 14 below, the Owner of any Site shall have the duty of, and responsibility for, keeping the buildings, paving, landscaping, lighting and other improvements, on the Site in a well-maintained, safe, clean, and attractive condition at all times. Although the Owner may by contract require tenants or occupants to perform these duties, the Owner shall be responsible to the Association for the duties arising under this Section. All grass, trees, and shrubbery must be kept in good appearance at all times. All grass must be cut whenever necessary and weeds must be controlled up to the curbs of public rights-of-way. Each Owner shall be responsible for removal of any rubbish or trash of any character which may accumulate on a Site. Damaged or cracked areas of all parking lots, sidewalks, and other hard surfaces shall be promptly repaired or replaced.

11.02 Site Maintenance During Construction:

During construction it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials.

11.03 Damage to Public Right-of-Ways and Common Areas:

No Owner or its employees, contractors or agents shall dispose of snow or any other materials in the public right-of-ways located in the Park. No Owner or its employees, contractors or agents shall damage any public right-of ways in the Park or any Common Area (as described in Section 14 below).

11.04 Right to Act on Owner's Behalf:

If, in the opinion of the Association or the Village of North Fond du Lac, any Owner fails to comply with these maintenance and damage provisions, the Association or the Village or both may give such Owner written notice and such Owner must, within 15 days after such notice, undertake the care and maintenance required to restore said Owner's property to a well-maintained safe, clean, and attractive condition, as to repair any damage, in accordance with the notice. In the event that such Owner fails to remedy the condition after notice, the Association or Village shall have the right and power, but not the obligation, to perform such care and maintenance, or to repair any damage, as it deems necessary or desirable to remedy the violation. If the Village performs the work, all costs incurred may be assessed to the Owner by the Village and added to the Owner's property tax bill for the Site. If the Association performs the work, and the cost of the work remains unpaid for 30 days after the

Owner is billed therefor, such charges may be collected pursuant to the procedure set forth in Section 15.

12. Inspection

The Association and the Village of North Fond du Lac may from time to time at any reasonable hour or hours, enter or inspect any Site or improvements to ascertain compliance with these Protective Covenants. The Association shall use its best efforts not to compromise security measures and shall strive not to interfere with normal conduct of business when inspecting property under this provision.

13. Enforcement

13.01 By Legal Action:

These Protective Covenants may be enforced at law or in equity by the Association or the Village of North Fond du Lac. However, if any Owner shall file with the Association a written petition for enforcement or commencement by the Association of proceedings to enforce these Protective Covenants and the Association shall fail to act accordingly within 30 days, or shall refuse such petition, then such petitioner may within a period of six months after filing such petition commence an action or proceeding against the violating Owner in law or in equity for enforcement or for damages arising from any violation of these Protective Covenants. Neither the Association nor the Village of North Fond du Lac shall be liable to any person or entity for failure or refusal to enforce any provision of these Protective Covenants.

13.02 Association May Levy Fines:

The Association may levy fines for continuing or flagrant violations of these Protective Covenants, including the parking provisions contained in Section 6. Fines shall be \$50 per violation or per day of continuing violation, until such time as a different fine schedule is adopted by the Board of Directors. Fines shall be assessed by written notice from the Board of Directors and paid to the Association. Fines for continuing violations shall not commence earlier than 48 hours prior to delivery of written notice to the Owner. Such fines and penalties, if they remain unpaid for 30 days, may become a lien against the Site pursuant to the procedures set forth in Section 15.

13.03 Right to Act on Owner's Behalf:

In addition to the foregoing remedies, the Association may undertake the obligations of any Owner arising under Section 5.14, Section 6.10 or Section 11 of these Protective Covenants. The right to act on Owner's behalf shall arise if the Owner has not acted to correct a violation of 5.14, concerning sediment and erosion control, Section 6.10, concerning parking and landscaping, or Section 11, concerning maintenance, after receipt of notice of violation from the Association and an opportunity to cure the violation, both as provided in Section 5.14, Section 6.10 and Section 11, respectively.

14. Park Maintenance

The Association shall be responsible for maintenance of the following (together, the "Common Areas"):

- a. Entrance monuments for the Park, including all related landscaping and lighting, if any.
- b. Any parcel of land or improvement designated as Common Areas on Exhibit B.
- c. Any parcel of land or improvement located in Expansion Lands (as defined in Section 17 below) and designated by the Declarant as Common Areas at the time such Expansion Lands are added to the Park.
- d. Any property owned by the Association.

Except as otherwise provided in this Section 14, the Owners of Sites within the Park shall be responsible for maintenance of such Sites, including Greenspace within such Sites, as set forth in Section 11 of these Protective Covenants.

15. Association Assessments

15.01 General Annual Assessment:

All Sites and the Owners thereof shall be subject to a general annual assessment, determined and levied by the Board of Directors, for the purpose of paying the costs and expenses incurred by the Association in performing its purposes and functions, including but not limited to the enforcement of these Protective Covenants. The Board of Directors by November 1 of each year shall prepare an annual budget and shall determine a general annual assessment based thereon which shall be sufficient to meet the estimated costs and expenses of the Association for the ensuing year.

If within fifteen (15) days after the annual budget is distributed to the Association members a petition is presented to the Board of Directors protesting such assessments or the budget upon which they are based, and the petition is signed by members having more than fifty percent (50%) of the total number of votes available in the Park, then the Directors shall notify all members of a meeting called for the sole purpose of reviewing such assessments or budget. At such meeting, the vote of more than fifty percent (50%) of the total number of votes available in the Park may revise the budget and assessments, and such revised budget and corresponding assessments shall replace for all purposes the ones previously established; provided, however, that the annual budget and assessments may not be revised downward to a point lower than the average total budget for the preceding two years and provided further, that if a budget and assessments have not been established and made for two preceding years, then the budget and assessments may not be revised downward until two years of experience exist.

The general annual assessment shall be allocated and prorated among the members of the Association in proportion to the Buildable Acres owned by each Owner, and shall be paid at

the time and in the manner determined by the Board of Directors, which time shall not be sooner than thirty (30) days after the date of the annual membership meeting at which the annual budget shall have been submitted to the membership.

15.02 Special Assessments:

Each Site and the Owners thereof shall be subject to special assessment by the Board of Directors to cover all or any part of any extraordinary expenses incurred by the Association but not included in the annual budget. Such special assessments shall be allocated among the Owners in proportion to the Buildable Acres owned by each Owner. Special assessments shall be due and payable sixty (60) days after the affirmative vote declaring such special assessments by the Board of Directors of the Association. Special assessments levied in any one calendar year shall not exceed 20% of the annual budget for such year without approval of a majority of the total number of votes available in the Park.

15.03 Collection and Enforcement:

The right to collect or enforce the collection of any assessments, special assessments, charges or fines assessed by the Association under these Protective Covenants is hereby delegated exclusively to the Association. The Owners shall be obligated to pay such charges, assessments, special assessments or fines, when due, and such charges, assessments, special assessments or fines shall also be and constitute a lien until paid, against the Site to which charged. All charges, assessments, special assessments and fines levied by the Association which are unpaid when due shall bear interest from such due date at a rate equal to three percent (3%) per annum above the prime interest rate reported in the Wall Street Journal, or if the Wall Street Journal is unavailable, the prime interest rate in a similar publication selected by the Association, until paid in full provided, however, that the interest rate shall be not less than twelve percent (12%) per annum ("Interest"). Such Interest, together with the underlying assessment or fine, shall from such time as the assessment or fine is unpaid when due become and remain a part of the lien upon such Site until paid.

15.04 Lien Against Site:

In the event that any assessment, charge or fine levied against any Site hereunder remains unpaid for a period of sixty (60) days from the due date, the Board of Directors may, in its discretion, file an action at law or a claim pursuant to Section 779.70(4) of the Wisconsin Statutes for a lien against such Site at any time within six (6) months from the date of the levy, such claim to be filed in the office of the Clerk of the Circuit Court of Fond du Lac County. The resulting lien may be enforced by foreclosure proceedings brought by the Association. Any such foreclosure action shall be brought in the same manner as an action to foreclose a real estate mortgage, and there shall be added to the amount due the costs of suit and Interest, together with a reasonable attorney's fee.

Any lien upon a Site securing unpaid assessments, special assessments, charges or fines arising hereunder shall be subject to and subordinate to the lien of any first mortgage upon such Site whether the mortgage is executed or recorded prior to or after the creation of such lien.

Nothing herein contained shall prevent or impede the collection of lawful charges, assessments and taxes by the Village of North Fond du Lac.

16. Amendment and Term of Protective Covenants

16.01 Amendment of Protective Covenants:

These Protective Covenants may be terminated, extended or amended, with a written affirmative vote of 66-2/3% of the total number of votes available in the Park; provided, however, that as long as Declarant owns any portion of the Park, no such termination, extension or amendment shall be effective without the written approval of Declarant and provided that these Protective Covenants may not be terminated, extended or amended without the consent of the Village of North Fond du Lac.

16.02 Term of Protective Covenants:

These Protective Covenants shall remain in force for 30 years from the date hereof. Thereafter, these Protective Covenants shall renew automatically for successive periods of 5 years each unless terminated by a majority vote of the total number of votes available in the Park, provided that the Village of North Fond du Lac consents to termination.

17. Expansion of the Park

Declarant may from time to time during the term of these Protective Covenants, add property to the Park (the "Expansion Lands"), and by recorded supplement to these Protective Covenants, declare such Expansion Lands, and the owners of such property to be subject to the terms of these Protective Covenants. Declarant shall designate those parts, if any, of such Expansion Lands that will be "Greenspace" or "Common Areas".

18. Termination and Assignment of Declarant's Rights

The rights of Declarant under these Protective Covenants as set forth in Section 2.03, 2.04 and 16.01 and 17 shall terminate thirty (30) years after the date of these Protective Covenants. Declarant may assign all or part of its rights under these Protective Covenants.

19. Municipal Rights of Approval

All pertinent and applicable laws, ordinances, rules and regulations of governmental agencies shall be applicable to the development of the Park, including, but not limited to ordinances of the Village of North Fond du Lac, such as the zoning code, building code, erosion control and fire protection ordinances. Nothing in these covenants shall be construed as waiving or releasing any person from compliance with such laws, ordinances, rules and regulations.

20. Waiver of Rights

The failure of the Association, the Review Board or the Village of North Fond du Lac, or any Owner to enforce any provision of these Protective Covenants shall not be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restriction. Nor shall the failure of the Review Board or the Village of North Fond du Lac to exercise any option to purchase deemed a waiver of any other right under this Declaration or any applicable law, ordinance, rule or regulation.

21. Right to Re-Subdivide

At the time of purchase of a Site from Declarant, such Site shall be considered as a single building site for all purposes hereunder. Re-subdividing of such Site by an individual Owner shall not be permitted without prior approval by the Association and the Village of North Fond du Lac.

22. Effect of Invalidation of Any Provision

In the event that any provision of these Protective Covenants shall be held to be invalid by any court, the invalidity of such provision shall not affect the remaining provisions of these Protective Covenants, which shall continue in full force and effect to the extent enforceable.

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IN WITNESS WHEREOF, the Declarant has signed these Protective Covenants as of the date first written above.

MLG INVESTMENTS LLC

By: Andrew C. Teske
Andrew C. Teske, Vice President

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 7th day of JUNE, 2001, the above-named Andrew C. Teske, to me known to be the Vice President of MLG INVESTMENTS LLC, and who executed the foregoing instrument and acknowledged the same as the act and deed of said corporation.

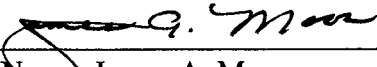
Nancy R. Pfeiffer
Notary Public, State of Wisconsin
My Commission expires: 11-18-01

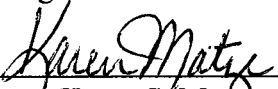
APPROVAL OF PROTECTIVE COVENANTS

The undersigned Village of North Fond du Lac, Wisconsin hereby approves those certain Protective Covenants for the Northgate Business Park, made and entered into by MLG Investments LLC on _____, 2001 and to be recorded in the public records of Fond du Lac County, Wisconsin.

IN WITNESS WHEREOF, this instrument has been executed on behalf of the Village of North Fond du Lac, Wisconsin, by its duly authorized representatives.


Village of North Fond du Lac, Wisconsin

By: 
Print Name: James A. Moon
Title: Village President

Attest: 
Print Name: Karen S. Matze
Title: Village Administrator

STATE OF WISCONSIN)
) SS.
COUNTY OF Fond du Lac)

Personally came before me this 15 day of June, 2001, the above-named James A. Moon and Karen S. Matze the Village President and Village Administrator respectively, of the Village of North Fond du Lac, Wisconsin and who executed the foregoing instrument and acknowledged the same as the act and deed of said entity.


Notary Public, State of Wisconsin
My Commission expires: 3/24/2002

This document was drafted
by and after recording
should be returned to:

Andrew C. Teske
MLG
13400 Bishop's Lane, Suite 100
Brookfield, WI 53005

EXHIBIT A

Legal Description
of
Northgate Business Park

[Attached]

EXHIBIT B

Map of Northgate Business Park

Northgate Business Park consists of the approximately 113.9 acres identified on the attached map as “B-P Business Park District”

These Protective Covenants do not apply to any areas of Northgate Business Park dedicated for public streets or public stormwater detention/retention areas (if dedicated by conveyance). Any public stormwater detention/retention areas dedicated by easement are hereby designated as “Greenspace” for purposes of section 5.02 of these Protective Covenants. No Common Areas have been designated at this time.

The cul de sacs shown on the attached Map have not yet been dedicated; the decision whether to dedicate one or both of such cul de sacs will be made at a future date.

APPROVAL OF PROTECTIVE COVENANTS

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IN WITNESS WHEREOF, this instrument has been executed on behalf of the Village of North Fond du Lac, Wisconsin, by its duly authorized representatives.

Village of North Fond du Lac, Wisconsin

By: _____

Print Name: James A. Moon

Title: Village President

Attest: _____

Print Name: Karen S. Matze

Title: Village Administrator

STATE OF WISCONSIN)
) SS.
COUNTY OF _____)

Personally came before me this ____ day of _____, 2001, the above-named James A. Moon and Karen S. Matze the Village President and Village Administrator respectively, of the Village of North Fond du Lac, Wisconsin and who executed the foregoing instrument and acknowledged the same as the act and deed of said entity.

Notary Public, State of Wisconsin

My Commission expires: _____

This document was drafted
by and after recording
should be returned to:

Andrew C. Teske
MLG
13400 Bishop's Lane, Suite 100
Brookfield, WI 53005

EXHIBIT A

Legal Description
of
Northgate Business Park

[Attached]

ZONING DESCRIPTION FOR
NEW AMERICA[®] INTERNATIONAL
MLG COMMERCIAL OF A PARCEL OF LAND TO BE
REZONED TO B^P AND LOCATED IN THE SOUTHWEST
1/4 AND THE SOUTHEAST 1/4 OF SECTION 32, T. 16
N.-R. 17 E., TOWN OF FRIENDSHIP,
FOND DU LAC COUNTY,
WISCONSIN

A part of the Southwest 1/4 and the Southeast 1/4 Section 32, T. 16 N.-R. 17 E.,
Town of Friendship, Fond du Lac County, Wisconsin and being more particularly described
as follows:

Commencing at the Southwest corner of the Southeast 1/4 of said Section 32;
thence East along the South line of the Southeast 1/4 of said Section 32, 1,225 feet more or
less to the Westerly line of the existing Village limits of the Village of North Fond du Lac;
thence North, 1,155 feet more or less to the point of beginning; thence continuing North
along said Village limits line, 156 feet more or less; thence West along the North line of the
South 1/2 of the Southeast 1/4 of said Section 32, 1,213 feet more or less; thence North
along the East line of the East 1/2 of the Southwest 1/4 of said Section 32, 1,186 feet more
or less; thence West 60 feet more or less; thence North, 120 feet more or less; thence West
along the North line of the Southwest 1/4 of said Section 32, 1,937 feet more or less;
thence South along the West line of the East 1/2 of the West 1/2 of the Southwest 1/4 of
said Section 32, 1,693 feet more or less to the centerline of North Pioneer Road; thence
Southeasterly along said centerline, 1,354 feet more or less; thence continuing along said
centerline on a curve to the right, 102 feet more or less along curve; thence Northeasterly
along the Northerly line of Lot 1, Certified Survey Map Number 4500, recorded in Volume
26, Page 24 and 24A, Certified Survey Maps, Fond du Lac County Register of Deeds
Office, 456 feet more or less; thence continuing Northeasterly along the North line of said
Lot 1, 84.11 feet; thence Easterly along the North line of said Lot 1 and on its extension
Easterly, 734 feet more or less; thence North 55° East along the centerline of Mosher
Creek, 43 feet more or less; thence North 23° East along said creek, 200 feet more or less;
thence North 36° East along said creek, 239 feet more or less; thence North, 192 feet more
or less; thence North 64° East, 331 feet more or less to the point of beginning and
containing 114 acres of land more or less.



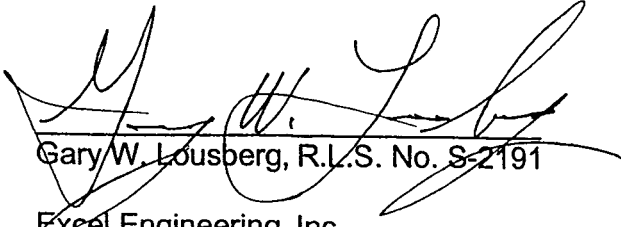

Gary W. Lousberg, R.L.S. No. S-2191
Excel Engineering, Inc.
Fond du Lac, Wisconsin, 54935

EXHIBIT B

Map of Northgate Business Park

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