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*HICKSVILLE INDUSTRIAL PARK*

*DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS*

THIS AMENDMENT TO DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS is made on this 5th of October, 1998, by the Village of Hicksville, and the property owners of record, hereinafter referred to as "Declarants":

WHEREAS, Declarants are the holders of the legal title to all of the premises included in the following described real estate, to wit:

*"PROPERTY LEGAL DESCRIPTION"*

The South Half of the North Half of the Northwest Quarter and the North Half of the South Half of the Northwest Quarter of Section 16, Town 4 North, Range 1 East, containing 80.12 acres of land.

Said premises are also known as Lot #10 and #11 of School Section 16 of Hicksville Township, Defiance County, Ohio, LESS AND EXCEPT the following described parcel:

Commencing at an iron pin at the Northwest corner of the Northwest Quarter of Section 16, Hicksville Township; thence South 0 degrees-00'00" West on the West line of the Northwest Quarter of Section 16 and on the centerline of the Hicksville-Edgerton Road a distance of 1,299.97 (one thousand two hundred ninety-nine and ninety-seven

Hundredths) feet to a point, said point being the true point of beginning of the parcel herein described' thence North 90 degrees-00'00" East on a line being at right angles to the West line of the Northwest Quarter of Section 16 a distance of 35.00 (thirty-five and zero hundredths) feet to an iron pin; thence continuing North 90 degrees-00'-00" East on a line being at right angles to the West line of the Northwest Quarter of Section 16 a distance of 120.00 (one hundred fifty-five and zero hundredths) feet East of and parallel with the West line of the Northwest Quarter of Section 16 a distance of 170.23 (one hundred seventy and twenty-three hundredths) feet to an iron pin; thence South 90 degrees-00'-00" West on a line being at right angles to the West line of the Northwest Quarter of Section 16 a distance of 120.00 (one hundred twenty and zero hundredths) feet to an iron pin; thence continuing South 90 degrees-00'-00" West on a line being at right angles to the West line of the Northwest Quarter of Section 16 a distance of 35.00 (thirty-five and zero hundredths) feet to a point on the West line of the Northwest Quarter of Section 16, also being the centerline of the Hicksville-Edgerton Road; thence North 0 degrees-00'-00" East on the West line of the Northwest Quarter of Section 16 and on the centerline of the Hicksville-Edgerton Road a distance of 170.23 (one hundred seventy and twenty-three hundredths) feet to the true point of beginning of the parcel herein described containing 0.606 acres of land, more or less, subject to all easements and zoning restrictions of records and legal highways.

(The bearings used herein are to an assumed meridian and indicate angles only.) which property is hereinafter referred to as the "premises"; and

WHEREAS, the said Declarants desire to amend the Hicksville Business Park Declaration of Restrictions and Protective Covenants originally dated February 5, 1990 and recorded in Volume 15, Page 578 of the Miscellaneous Records of the Recorder of Defiance County, Ohio, and

WHEREAS, the said Declarants desire to make known, the restrictions, conditions, covenants, charges and agreements subject to which all of said Premises hereinabove and described, now owned by them in order to insure proper use and appropriate development and improvement of said premises;

NOW, THEREFORE in consideration of the enhancement in value of said Premises, to afford purchasers and occupants thereof due and ample protection in the use and occupancy of the same, and to provide a general plan of development of said Premises designed to make the same more attractive for the Owners thereof, the undersigned Declarants do hereby declare and stipulate that each of the lots in said Premises or any part or portion of the Premises is made, and shall be held, subject to the following restriction, covenants and conditions.

#### ARTICLE I: PURPOSE

(1.1) The Premises is hereby made subject to the following conditions, covenants, restrictions, and reservations, all of which shall be deemed to run with the land and each and every parcel thereof, to ensure proper use and appropriate development and improvement of said Premises so as to: (a) maintain property values; (b) protect the

Owners and tenants of Building Sites against such improper development and use of surrounding Building Sites as will depreciate the value and use of their Building Sites; (c) control the quality and methods of construction; (d) insure adequate and reasonably consistent development of the Premises; (e) encourage and insure the erection of attractively designed permanent improvements appropriately located within the Premises in order to achieve harmonious appearance and function; and (f) generally promote the welfare and safety of the occupants, tenants and Owners of Building Sites.

#### **ARTICLE II: DEFINITIONS**

**(2.1) *Definition of terms:***

- A. "Building Sites" shall mean any contiguous plot of land the size and dimensions of platted lot number of which shall be established by the legal description in the original conveyance from Declarants to the fee Owner of said plot of land, other than Declarants. A Building Site may also be established by and recorded by the Declarants, which designates a plot of land as a Building Site for purposes of these covenants. If two or more contiguous Building Sites, as defined hereinabove, are acquired by the same Owner in fee, such commonly owned Building Sites may, at the option of said Owner, be combined and treated as a single Building Site for purposes of the Covenants contained herein.

- B. "Improvements" shall mean and include but not be limited to buildings, parking areas, loading areas, fences, walls, hedges, landscaping, mass planting, poles, signs, and any structures of any type or kind.
- C. "Utility" means communication, electric, gas, water, sewer, rail, and access roads to building facilities. Easy access shall be provided and maintained for these facilities in order that regular maintenance can be provided for reliable service.
- D. "Declarants" shall mean the current owners, their successors and assigns.
- E. "Owner" shall mean the party or parties owning fee title to a Building Site, provided however, that an Owner may, on written notice to Declarants, assign all or part of his rights; but, said assignee and Owner shall both be jointly and severally liable for the performance of all duties and conditions set forth herein.
- F. "Hicksville Industrial Park" shall mean and refer to the Premises as defined above and each and every part and/or parcel thereof and the Property used in common as defined hereinabove.

**ARTICLE III: PERMITTED USES AND PERFORMANCE STANDARDS**

- (3.1) No noxious or offensive trades, services, or activities shall be conducted on any Building Site nor shall anything be done thereon which may be or become an annoyance or nuisance to the Owner, tenant, or occupant or, other Building Sites within the

premises by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke, or noise, or which in any other manner interferes with the reasonable use of other Building Sites by its Owner, tenant or occupant.

- (3.2) Building Sites shall only be utilized for business activities such as engineering, research facilities, laboratories, industrial uses, offices, warehousing and distribution, and such other compatible uses as the Declarants shall permit in its sole discretion. All such uses shall comply with all relevant and applicable local zoning ordinances and State and Federal regulations. Any property not purchased as a building site can be used for such purposes as deemed appropriate by the Declarants.
- (3.3) All buildings shall be of steel and/or masonry construction.

**ARTICLE IV: REGULATIONS OF BUILDINGS, STRUCTURES, & IMPROVEMENTS**

- (4.1) Generally, no buildings, structures, or improvements shall be Constructed, erected, placed, altered, maintained, or permitted on any Building Site until plans and specifications and intended use therefore have been approved by the Mayors Commission of Economic Development as more fully set forth in Article V, Paragraph 5.2, of these covenants.

- (4.2) **Setbacks.** All building and improvements shall be erected in conformity with platted building lines and applicable zoning ordinances. All parcels and future plats will conform, in general, to the building lines of parcels already platted within the premises, particularly with adjacent parcels. Setback distances are from property lot lines and/or from the existing or any proposed right-of-way of thoroughfare. Setbacks shall be 50 feet in front yard, 40 feet in rear yard, and 30 feet on each side yard.
- (4.3) **Height Restrictions.** No building or appurtenance, included but not limited to, water, towers, standpipes, penthouses, elevators or elevator equipment, stairways, ventilating fans, or similar equipment required to operate and maintain any building, fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts, or flagpoles shall exceed a height of 50 feet above the finished building grade established by the Mayor's Commission of Economic Development without the prior written approval thereof, and shall comply with all local zoning regulations concerning height restrictions.
- (4.4) **Lot size/Lot Coverage.** The minimum lot area shall be 2 acres with a minimum lot width of 200 feet. The maximum percent of lot coverage shall be 50 percent.

- (4.5) **Off-Street Parking.** No parking shall be permitted on any street or at any place other than on the parking spaces provided for and described hereinbelow. Each Owner and tenant shall be responsible for compliance with the foregoing by his employees and visitors. Adequate off-street parking shall be provided by each Owner and tenant for customers, visitors, and employees. The location, number and size of parking spaces shall be subject to approval by the Mayors Commission of Economic Development pursuant to Article V. hereof, and shall comply with any local zoning ordinances. All off-street parking and access drives and loading areas shall be property graded to assure proper drainage.
- (4.6) **Loading Areas.** All loading docks shall be so placed that trucks and other vehicles or machinery using such loading docks will at no time project into any dedicated public street when in the process of loading or unloading. The Mayors Commission of Economic Development will review and have the ability to reject loading dock designs placed on any side of a building having a street frontage that the Mayors Commission of Economic Development deems to have a detrimental appearance relative to the standards outlined in this Declaration.



**(4.7) Outside Storage.** No materials, supplies, equipment, finished or Semi-finished products, or articles of any nature shall be stored or permitted to remain on any Building Site outside of the building without proper screening as specifically approved by the Mayors Commission of Economic Development. Any outside storage is strongly discouraged, and in no instance will outside storage be allowed in front setbacks. No outbuildings are to be constructed on any setbacks, utility easements or right-of-way. Waste and rubble storage facilities shall not be installed, constructed, or utilized without prior written consent of the Mayors Commission of Economic Development. No material storage shall be placed or located on any utility easement or right-of-way.

A. **Landscaping.** All Building Sites shall be landscaped only in Accordance with a plan submitted to and approved in writing by the Mayors Commission of Economic Development. Further, it shall be the responsibility of the Owner of a Building Site to landscape and maintain all areas within said Owner's Building Site.

**(4.8) Maintenance.**

A. Each owner of any Building Site shall keep his land, buildings, improvements, and appurtenances thereon in a safe, clean, neat, wholesome condition and shall comply in

all respects with all governmental statutes, ordinances, regulations, health and police and fire requirements. All dirt areas shall be seeded and maintained. All stone areas shall be kept free of weeds and grass. Each Owner, tenant, or occupant shall remove at his own expense any rubbish or trash of any character, which may accumulate on its Building Site. Rubbish, trash, garbage, or other waste shall be kept only in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Rubbish and trash shall not be disposed of on the Premises by burning open fires.

B. Each Owner of any Building site shall also mow and Maintain in a clean, neat and wholesome condition that portion of the dedicated street right-of-way between the property line of the Building site and the paved street or finished berm.

**(4.09) Signs.** All permanent signs for Building Sites located in Hicksville Industrial Park must be submitted for approval to the Mayors Commission of Economic Development and must conform in style, form and color, and style with signage on other Building Sites.

A. The construction of temporary signs is allowed with approval of the Mayors Commission of Economic Development. Such signs shall conform in style, form and color with permanent signs on the Premises and shall be limited to three types as follows:

1. Temporary signs during building construction  
Indicating architect, contractor, engineers, and related information. This sign shall be no larger than 50 square feet and shall be removed upon completion of construction.
2. Temporary signs containing building sales/lease information. This sign shall be no larger than 50 square feet and shall be removed upon sale or lease of the appropriate space. While erect, the sign shall be maintained in good order and not allowed to deteriorate.
3. Temporary signs indicating a building name and/or address, erected while awaiting construction or delivery of a permanent building sign. The sign shall be no larger than 50 square feet and shall be removed upon installation of the permanent building sign.

- (4.10) **Utility Connections.** All overhead facilities of a trunk feeder System in the park shall be furnished to the property line. Connections of service lines which are located from the Owner's property line to the building line are required to be underground.
- (4.11) **On-site Drainage.** Each Building Site owner shall be required to provide adequate drainage facilities in accordance with existing storm system, existing topography, and by such methods as may be approved by the Mayors Commission of Economic Development.

**ARTICLE V: APPROVAL OF PLANS**

- (5.1) The Village of Hicksville previously established a Mayors Commission of Economic Development. The vote of a majority of the Mayors Commission of Economic Development shall constitute official action of said Committee. Members of the Mayors Commission of Economic Development shall serve at the pleasure of the Mayor of the Village of Hicksville.
- (5.2) No buildings, structures, or improvements shall be constructed, erected, placed, altered, maintained, or permitted on any Building Site until plans and specifications with respect thereto in manner and form satisfactory to the Mayors Commission of Economic

Development showing the proposed buildings and improvements, plot layout and all exterior elevations, materials and colors, signs and layout parking spaces, grading, easements and utilities, proposed building use and number of employees, and such other information as may be requested by said Commission have been submitted to and approved in writing over the signature of the owner of the Building Site or the Owner's authorized agent.

- (5.3) Approval shall be based on, among other things, adequacy of Building Site dimensions, conformity and harmony of external design with neighboring structures, effect of location and use of improvements on neighboring Building Sites, operations and uses, relation of topography, grade and finished ground elevation of the Building Site being improved to that of neighboring Building Sites, proper facing of main elevation with respect to nearby streets, and conformity of the plans and restrictions as set forth herein. The Mayors Commission of Economic Development shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.
- (5.4) If the Mayors Commission of Economic Development fails either to approve or to disapprove plans and specification which have been revised within thirty (30) days after the same have been submitted (provided that all required information has been

submitted), it shall be conclusively presumed that said plans and specifications have been approved subject, however, to the restrictions contained in Article III hereof. The Mayors Commission of Economic Development shall notify the Owner in writing upon receipt of all required plans and specifications and the aforesaid 30-day period shall commence on the date of such notification.

- (5.5) Neither the Mayors Commission of Economic Development nor Declarants or their respective successors or assigns shall be liable in damages to anyone submitting plans to them for approval, or to any Owner of land affected by this Declaration, by reason of mistake in judgement, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any such plans and specifications. Every person who submits plans to the Mayor Commission of Economic Development for approval agrees, by submission of such plans and specifications, and every Owner or tenant of any of said Building Sites agrees, by acquiring title thereto or an interest therein that he will not bring any action or suit against the Mayors Commission of Economic Development or Declarants to recover any such damages.

- (5.6) All fees for services rendered by the Mayors Commission of Economic Development in the approval of plans for the initial building are included in the cost of the land.

**ARTICLE VI: ENFORCEMENT**

- (6.1) **Abatement and Suit.** The conditions, covenants, restrictions and reservations herein contained shall run with the land and shall be binding upon and inure to the benefit of the Declarants and the Owners of every Building Site on the Premises, their heirs, successors, and assigns. These conditions, covenants, reservations, and restrictions may be enforced as provided hereinafter by the Declarants acting on their own behalf or on behalf of the others herein included, the Mayors Commission on Economic Development, any Owner of any Building Site, or the Property Owners Association. Any condition, covenant, restriction, or reservation herein contained may be enforced by any or all of said persons by prosecuting a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these conditions, covenants, restrictions and/or reservations, to enjoin or prevent them from so doing, and to cause said violation to be remedied or to recover damages for said violation. Every such violation of these covenants or any part thereof is hereby declared to be and to constitute a nuisance, and

every public or private remedy allowed therefore by law or equity against an Owner, tenant or occupant shall be applicable against every such violator or violation, and may be exercised by the aforesaid.

A. **Enforcement Costs.** In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, the losing party or parties shall pay the reasonable attorney's fees of the prevailing party or parties in the amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

B. **Severability.** The failure of the Declarants or any Owner to enforce any of the conditions, covenants, restrictions, or reservations herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions, covenants, restrictions, or reservations; and Declarants shall not be liable therefor.

C. **Variances.** In those instances where strict compliance with these specific standards would create an undue hardship by depriving the Owner or lessee the reasonable use of its parcel or where, in the opinion of the Commission, there are unusual characteristics which affect the parcel or use in question and which would make strict compliance with these standards as long



as the general purpose of the standards are maintained. Any variance granted from the provisions of these standards as long as the general purpose of the standards are maintained. Any variance granted from the provisions of these standards shall only be applicable to the specific parcel and conditions for which the variance was granted and shall in no respect constitute a change in or affect the terms or conditions set out in the standards as same apply to other parcels or conditions.

**ARTICLE VII: PROPERTY OWNERS ASSOCIATION**

- (7.1) Owners of developed lots shall have the right to form an Association membership in which shall be limited to actual owners of lots in the above described premises. Said Property Owners Association shall have the right to enforce the conditions, covenants, restrictions, and reservations contained in this Declaration, as set forth in Article VI.
- (7.2) **Voting Rights.** All owners of developed lots shall be entitled to one (1) vote for each lot owned. When more than one person, corporation, partnership, or other entity holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.

**ARTICLE VIII: TERM, TERMINATION, MODIFICATION, & ASSIGNMENTS**

(8.1) **Term.** This Declaration, every provision hereof and every covenant, condition, restriction, and reservation contained herein shall continue in full force and effect for a period of ten (10) years from the date hereof, and shall thereafter be renewed automatically from year to year unless and until terminated as provided in Article VIII, Paragraph 8.2, hereof.

(8.2) **Termination and Modification.** This Declaration or any provision hereof, or any covenant, condition, restriction, or reservation contained herein, may be terminated, extended, modified, or amended, as to the whole of said Premises or any portion thereof, with the written consent of seventy-five (75) percent of the Owners Premises. Such termination, extension,

modification, or amendment shall be immediately effective upon recording a proper instrument in writing executed and acknowledged by such Owners in the office of the Recorder of Defiance County, Ohio.

Dorothy Davis

Dorothy Davis

Cheryl Miller

Dorothy Davis

Cheryl Miller

Annette Parisot

Annette Parisot

Anthony R. Nighswander

Anthony R. Nighswander

Kalli Countryman

Kalli Countryman

Michael Schulz

Michael Schulz

Karri Neidhardt

Karri Neidhardt

R2 Musser

Rick Musser

Janice Meyer

Mayor  
Janice Meyer

Diane Collins

Clerk/Treasurer  
Diane Collins

Patrick Weidenhamer

A&P Tool,  
Patrick Weidenhamer

Kevin Countryman

CoMED,  
Kevin Countryman

Leona Neidhardt

Nemco Medical,  
Leona Neidhardt

Before me appeared the above named Janice Meyer, Mayor Village of Hicksville, Diane Collins, Clerk/Treasurer and Patrick Weidenhamer, President A & P Tools, and Kevin Countryman, President CoMED, Inc., and Leona Neidhardt, Vice President, Nemco Medical, who acknowledge that they did sign the foregoing instrument and that the same is their free act and deed.

IN WITNESS WHEREOF, I here unto set my hand and official seal this 12<sup>th</sup> day of October, 1998.

Stanley J. Yoder  
Notary Public  
My Commission Expires: lifetime

SEAL

Received and Recorded for OFFICIAL RECORDS  
On DEC 21 1998 at 10:00 o'clock A M  
OR Vol 61 Page 930  
DEFIANCE COUNTY OHIO  
Fee: \$ 24.00

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COMPARED

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