

**AGREEMENT AND COVENANTS FOR THE USE AND MAINTENANCE  
OF THE PRIVATE ROADWAY KNOWN AS “NORTH FIELD DRIVE”,  
PUBLIC AND PRIVATE UTILITIES And FIRE SUPPRESSION POND**

VAS, LLC dba Arbor North, of 5757 Pontiac Trail, Ann Arbor, Michigan 48105 is owner (‘Owner’) of that certain 68+/- acres of land fronting on Northfield Church Road (‘Property’) in the Township of Northfield, Washtenaw County, Michigan described more particularly as:

Northfield Twp Parcel ID #8-02-34-200-003 Part of the Northwest ¼ of Section 34, Town 1 South, Range 6 East, Northfield Township, Washtenaw County Michigan described as: Beginning at the Northwest Corner of Section 34 and the Centerline of Northfield Church Road, North 86°29’17” East 300.00 feet; thence South 02°10’15” East 687.70 feet; thence North 86°29’17” East 633.49 feet; thence South 31°00’00” East 1088.18 feet; thence South 67°30’00” East 534.63 feet; thence South 45°00’00” East 143.42 feet; thence South 86°32’28” West 10.69 feet; thence South 45°00’00” East 574.47 feet; thence along a line 235.00 feet North of and parallel to the East and West ¼ Line of Section 34, South 86°33’18” West 2421.72 feet; thence along the West Line of Section 34, North 02°10’15” West 2422.89 feet to the Point of Beginning

This use and maintenance agreement is for North Field Drive, a 66 foot wide easement for utilities and ingress-egress which contains a private road and cul-de-sacs and connects to Northfield Church Road (‘the Drive’) and certain other easements for public and private utilities (variously, ‘Utility Easement(s)’) as described herein and in Exhibit A, plus a nearby Fire Suppression Pond as per Exhibit D (‘Pond’). This agreement benefits and burdens all parcels (‘Parcels’) henceforth which have been or may be split from Property’ and for the benefit of VAS, LLC, dba Arbor North as holder of an easement-in-gross. Owners of the Parcels (including the parent Property) are referred to herein collectively as ‘Owners’. Drive and Utility Easements are described in Exhibit A. Drive and utilities are extendable by VAS as holder of easement-in-gross at any time as generally described in Exhibit B (‘extension’).

In consideration of the mutual benefits to be derived, the Owners on this 4th day of January 2005 hereby place the following restrictions upon the subject parcels described in the survey and declare the same to be binding upon all subsequent owners of subject parcels, or divisions of subject parcels, and the same shall run with the land and each person hereafter accepting a deed or other conveyance of any of the subject parcels or divisions thereof shall take the same subject to these restrictions.

1. The Drive and Pond are dedicated to all present and future Owners for purposes of ingress and egress over the Drive, for installation and maintenance of public and private utilities and for

fire suppression. Up to four adjoining parcels to the south may in the future at the sole election of VAS hold rights to use portions of the Drive for ingress-egress, the Pond or any utilities installed by or for VAS or Owners. The parcels split from the 30.4+/- acre parcel currently owned by VAS, LLC and its assigns lying south of the powerline right of way adjoining Property ('South 30') hold rights to use the Utility Easement and Drive for utilities, whether tying into those utilities installed by Owners or adding utilities at the expense of VAS, LLC or its assignees. Such adjoining parcels are shown on Exhibit C and described via parcel ID #s on Exhibit B ('Adjoining Parcels').

2. Initial construction of Drive and Pond are at the sole expense of VAS, LLC. Initial cost of installing various utilities will be paid by the benefiting Parcel; however VAS, LLC may elect to install certain utilities subject to ratable reimbursement from the buyers of Parcels at closing and/or Adjoining Parcels upon execution of a cost-sharing agreement (to be drafted later) with an Adjoining Parcel. The initial cost of tying additional roadway to or lengthening the Drive, and/or installing various utilities in the Drive or elsewhere to benefit Adjoining Parcels will be at the sole expense of the VAS or those newly benefiting parcel owners and not at the expense of Parcel owners. After initial installation, the cost of all Drive, Utilities and Pond improvements, maintenance and/or repairs and related liability insurance shall be borne by all Owners and participating Adjoining Parcels (which thenceforth are considered additional Owners). Accession of an Adjoining Parcel as a new Owner occurs when the new Owner agrees to be bound by all terms and conditions of this agreement. Any paving of the Road, whether triggered by agreement between Owners or as may be required by the Township upon the number of parcels fronting on the Road exceeding 10 in number, or otherwise, will be to County Road Commission specifications for private roads, with reimbursement to VAS from Parcel owners within 30 days of invoice from VAS, at the rate of \$3,900 per parcel for all 5+/- acre parcels, and \$5,900 per parcel for both Adjoining and 10+/- acre parcels, with odd acreages ratably adjusting and such reimbursement amounts increasing in proportion to changes in the Consumer Price Index or equivalent from 12/31/04 to the date of paving completion.

3. The necessity of and authority for completion of improvements, maintenance and/or repair of the Drive, Pond and/or Utility, together with the method of assessment and the collection of funds, shall be determined as follows:

- a. Each Parcel shall promptly repair and restore damage to the Road, Pond and/or Utilities which is proximately caused by construction activities related to that particular Parcel, without reimbursement from other parcels.
- b. Whenever one or more Owners shall determine that any part of the Drive, Utilities, Pond and/or related Easement is in need of improvement, maintenance or repair, an Owner may call a meeting of the other Owners by sending a notice by certified mail to the residential address of such Owner. The meeting notice shall set forth the date, time and location of the meeting, said notice to be mailed not less than ten (10) nor more than thirty (30) days prior to said meeting. (The owner of purchaser's interest in a land contract for the purchase of said parcels shall be deemed, for purposes of this agreement, to be the Owner of said parcel.)
- c. At the time and place of the meeting, a quorum shall be determined by the attendance of the Owners of fifty (50) percent of the parcels regarding maintenance and repairs and any improvements required by operation of law. No quorum is needed regarding improvements to be paid for solely by the person(s) calling the meeting.

- d. The person calling the meeting shall be deemed to be the convenor and Chairperson of the meeting. The quorum shall thereafter designate a Secretary, whose job it shall be to transcribe the action of the meeting.
  - e. All action of the parcel Owners at said meeting shall be determined by the affirmative vote of the majority of those in attendance at said meeting.
  - f. Each parcel is entitled to one vote except where improvements are to be paid solely by the convenor(s), in which case no vote of other parcels may operate to prevent the improvement.
  - g. The Chairperson shall be authorized to contract for the improvement, maintenance and repairs as determined necessary by the vote of the meeting.
  - h. The cost of all *maintenance* (including but not limited to filling of potholes and smoothing, plus proper storm water related maintenance in swales and pond, repair and/or replacement of improvements) and related liability insurance shall be shared equally between then-current Owners regardless of the size, number of parcels owned, location or front footage owned on the Drive. Each Owner is responsible for grass-cutting and other maintenance in the entire length and width of grassy swale of Drive which directly adjoins that Owner's Parcel frontage, whether or not said swale lies inside another Parcel's legal description. The Owner of the Parcel whose well pump services the Pond will repair, maintain and replace the well pump, aerator and related lines and equipment needed to maintain the Pond level and water quality, with prompt reimbursement from other Owners. The cost of *improvements* shall be borne solely by the Owners who have called the meeting unless i) there is a unanimous vote by all Owners or ii) said improvements are required by operation of law, in either of which cases the cost will be shared equally by each parcel owned (but not by the holder of easement-in-gross) regardless of its size, location or Drive front footage.
  - i. The Secretary will be authorized to determine equal assessments for each parcel. Statements shall be mailed by the Secretary by regular mail to the residential addresses of the owners of the parcels. Said assessments shall be payable within thirty days from the date of mailing.
  - j. If an Owner shall fail to make payment within the thirty (30) day period ('default'), said assessment shall thereafter accrue interest at the rate of one and one half (1 ½) percent per month and be retroactive to the date of mailing. Such unpaid payment shall become a lien on the defaulting Owner's Parcel. The Secretary shall be authorized to institute suit in the name of and for the benefit of the other Owners to collect the same in any court of law, including attorney's fees.
  - k. Notwithstanding the foregoing, 1) no meeting is required for authorization of obtaining liability insurance, except that the owners of parcels will meet initially establish a schedule for allocating such responsibilities and costs by rotating among said owners and 2) keeping the Pond full as required by the Fire Marshall of Northfield Township and aerating or otherwise maintaining water quality so as to prevent mosquito breeding will become the permanent responsibility of the owner of Parcel 2 (i.e. topping off the water level from Parcel 2's well pump) prior to Parcel 2 obtaining a certificate of occupancy, subject to reimbursement from other Owners as described above. If Parcel 2 is not equipped to top off the water level by the time the first buyer from Owner of any Parcel completes construction of a home on their parcel, Owner will be responsible for topping off the Pond water level, installing a well on Parcel 2 which will then be sold at cost to the buyer of Parcel 2 for simultaneous use as its home site well, per regulations of the Fire Marshall.
4. Terms 'maintenance', 'repair', 'liability insurance' and 'improvement' are defined as follows:

- a. The terms “maintenance” and “repair” shall be deemed to include, but are not limited to, general repair, capital repair & replacement, filling of potholes, crack sealing, grading & surfacing shoulders with gravel, snowplowing, maintaining liability insurance in commercially reasonable amounts insuring claims on account of bodily injury or death or property damage incurred on, in or about the Drive, Utilities and Pond and keeping the Pond full as required by the Northfield Township Fire Marshall in Exhibit F.
- b. The term “liability insurance” shall mean liability insurance in commercially reasonable amounts, with certificates issued to each Owner naming them as ‘additional insured’, insuring claims on account of bodily injury or death or property damage incurred on, in or about the Drive, Utilities & Pond, whether or not such improvements are located on Owner’s Parcel. Homeowner insurance is deemed an acceptable, commercially reasonable form.
- c. The term “improvements” shall be deemed to include, but is not limited to, original new utilities, bituminous or cement surfacing, lengthening Drive or installing connector drive segments, installation of storm and/or sanitary sewers and any and all manner of things which may be established, erected and constructed on, over or under the private road right-of-way, including widening or lengthening of the road surface (with corresponding addition or relocation of cul-de-sacs).

5. Drive and/or Utility extension as in Exhibit B is/are at the sole option of VAS as holder of easement-in-gross, whether to electively benefit and burden Adjoining Parcels which exist or may be created or for other purposes. Required costs of improvement or extension will be borne solely by the initiating party or benefiting parcel.

6. If any governmental or quasi-governmental unit or agency shall require maintenance, repair and/or improvement of Drive, Pond or Utilities, the cost of same shall be shared equally by Owners in the same manner set forth herein unless such benefits shall be subject to assessment and collection by the power of such governmental or quasi-governmental agency.

7. Any sale, subdivision, or resale of any benefiting and/or burdened parcel, shall be made subject to the terms, conditions and covenants of this agreement. At all times the obligations and rights hereon, including the obligation to improve, repair and maintain the Drive shall run with the land and shall remain an encumbrance upon the Owners’ parcels and shall bind the parties, their executors, administrators, heirs and assigns. All agreements and covenants herein shall run with the title to each of the parcels described herein or any subdivision thereof and to any added as benefited/burdened parcels via reconfiguration.

8. The parties hereto acknowledge the Drive is and will be known as North Field Drive, has been constructed as described and Owners hereby subject their parcels to these covenants for common use and future rights and obligations as recited herein by affixing their signatures hereto.

9. Nothing contained herein shall be deemed to be a gift or dedication of any portion of any Parcel, easement or usage right to or for either the general public or an adjoining parcel or for any public or private purposes whatsoever, it being the intention of the Parties that this Agreement shall be strictly limited to and for the purposes herein expressed.

This agreement binds the parties hereto, their heirs, legators, executors, administrators, personal representatives, successors and assigns. In witness whereof the parties hereto set their hands.

Witnesses:

\_\_\_\_\_  
VAS, LLC owner of Property & easement-in-gross  
dba Arbor North

\_\_\_\_\_  
by Jack R. Hendrickson, Jr. Its Manager

STATE OF MICHIGAN     )  
  ) ss.

COUNTY OF WASHTENAW     )

The foregoing instrument was acknowledged before me this \_\_\_th day of January 2005, by Jack R. Hendrickson, Jr., who acknowledged himself to be the Manager of VAS, LLC, dba Arbor North Equities.

\_\_\_\_\_  
Notary Public, Washtenaw County, Michigan  
My commission expires: \_\_\_\_\_

When recorded return to:  
Jack R. Hendrickson, Jr, Esq 734-761-5068  
5757 Pontiac Trail  
Ann Arbor, MI 48105

Drafted by:  
Jack R. Hendrickson, Jr, Esq  
5757 Pontiac Trail  
Ann Arbor, MI 48105

**EXHIBIT A-NORTH FIELD DRIVE/UTILITIES EASEMENT as initially constructed  
Legal and drawing attached**

**EXHIBIT B  
Allowable extensions of Drive & Utilities**

Areas outlined in bold black solid line on Exhibit B allowing

- 1) Drive and Utilities to be extended at option of VAS, LLC southeast across the powerline right of way to connect to and benefit/burden the “Kim” parcel parcel ID number 8-02-34-300-012and/or
- 2) Utilities to be extended at option of VAS, LLC south across the powerline right of way to connect to and benefit/burden the adjoining Arbor North Parcels parcel ID numbers: B-02-34-300-013, B-02-34-300-014, B-02-34-300-015, B-02-34-300-016, B-02-34-300-017, B-02-34-300-018 &/or east along the no-build area bordering the south boundary of Parcel 6 to connect to and benefit/burden the adjoining “Willets” parcel with ID number B-02-34-200-013, &/or west along the no-build area bordering the south boundary of Parcel 5 to connect to and benefit/burden the adjoining “Kempf” parcel with ID number B-02-34-200-008, &/or west along the no-build area bordering the north boundary of Parcel 1b to connect to and benefit/burden the adjoining “Brown” parcel with ID number B-02-34-200-001

**EXHIBIT C  
Area Plan, including Parcels As Initially Proposed for Split showing Initial Drive/Utility  
Easement (drawing attached)**

**EXHIBIT D – Fire Suppression Pond location  
and Fire Marshall Pond Maintenance Requirements (drawing attached)**