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Dan J. ...
REGISTER OF DEEDS

INST. NO 98

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RESTRICTIVE COVENANTS

The Yankee Hill Development LLC (Owner) is the Owner of the following-described real estate:

Lots 1 through 11, Block 4, Cripple Creek South 10th Addition (Golf Course Properties) and Lots 3 through 13, Block 1, Lots 1 through 5, Block 2, and Lot 1, Block 5, Cripple Creek South 10th Addition, Lincoln, Lancaster County, Nebraska, (Non-Golf Course Properties), collectively referred to as the "Properties", and Lot 2, Speldel Addition, Lincoln, Lancaster County, Nebraska ("Golf Course").

The Properties are subject to certain Restrictive Covenants recorded September 26, 1997, as Instrument No. 97-39967. The rights of the owner under Instrument No. 97-39967 have been assigned to Yankee Hill Development LLC.

Yankee Hill Golf Course Homeowners Association is an unincorporated association formed for the purpose of enforcing the Restrictive Covenants established upon the Properties and, if the Association becomes incorporated pursuant to these Restrictive Covenants, for the purpose of administering and maintaining future common areas (Commons).

These Restrictive Covenants are established upon the Properties. These Restrictive Covenants shall be cumulative with the Restrictive Covenants recorded as Instrument No. 97-39967.

1. **COMMENCEMENT OF CONSTRUCTION:** Construction of a dwelling shall commence on each lot within three years of the conveyance of such lot from the Owner to a new titleholder (Original Sale). If construction has not commenced within three years, Owner shall have the option to repurchase the lot at the same price as the Original Sale, less any real estate commissions or other closing costs paid by Owner at the time of the Original Sale.
2. **APPROVAL OF PLANS:** Owner shall have the exclusive right to establish grades and slopes for all lots within the Properties and to fix the grade at which any building shall be placed or constructed upon any lot, in conformity with the general plan for the development of the Properties. Plans for any building or other improvement to be placed or constructed upon any lot within the Properties shall be submitted to the Owner and shall show the design, size, and exterior material for the building or improvement, and the plot plan for the lot, and landscape plan. One set of plans shall be left on permanent file with Owner. Construction of the building or improvement shall not be commenced unless written approval of the plans has

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been secured from the Owner and shown of record. Written approval or disapproval of the plans shall be given by the Owner within 30 days after receipt thereof. Approval of the plans shall not be unreasonably withheld, and upon disapproval, a written statement of the grounds for disapproval shall be provided. Owner shall have the exclusive right to disapprove the plans, if in Owner's opinion, the plans do not conform to the general standard of development in the Properties.

3. **MINIMUM STANDARDS:** The following general standards shall guide the owner in the review of any plans for dwelling structures submitted for approval within Properties. These standards shall not be relied upon, interpreted or applied as absolute requirements for plan approval. The Owner shall have the right, in the Owner's sole and absolute discretion, to modify the application and interpretation of these standards when exercising plan approval authority.

a. **Minimum Floor Area:** The minimum floor area for any dwelling exclusive of basements, garages, porches, patios, decks or enclosed decks shall be as follows:

- i. Single-story ranch style, 1,800 square feet;
- ii. Two-story, 2,500 square feet;
- iii. Multi-level/split-entry, 2,500 square feet.

Owner shall have the right to modify the strict application of these standards if, in the Owner's sole discretion, the dwelling will conform to the general standard of development within the Properties.

b. **Setbacks:** Setbacks of dwellings from the lot lines are established as follows:

- i. Interior lots, 25 feet from the front lot line;
- ii. Corner lots, 25 feet from street side front lines;
- iii. The setback from the side lot line for Non-Golf Course Properties shall be 7.5 feet and for Golf Course Properties shall be 10 feet.

Owner shall have the right to vary setbacks within the limits established by the zoning ordinance of the City of Lincoln, Nebraska.

c. **Exterior Finish:**

- i. **Approval:** All exterior finish materials and colors shall be approved by the Owner. The first floor of the front elevation of any dwelling shall be faced with brick, natural stone, or stucco. The balance of any exterior elevation shall be faced with permanent vinyl, steel, aluminum, or other approved permanent maintenance-free siding.
- ii. **Exposed foundations:** Exposed foundation walls shall be faced with brick, natural stone, stucco, or permanent siding to match the exterior of the dwelling.

- d. **Roofs:** All roof pitches shall be a minimum of 8:12, or as may be dictated by a unique architectural style. Roofing materials shall be built up asphalt shingles, shakes, wood shingles, tile or slate.
- e. **Lawn Irrigation System:** All lots within the Property shall be equipped with underground lawn irrigation systems.
- f. **Landscaping:** A landscape plan shall be submitted for approval along with the plans for construction of any dwelling. Such landscape plan shall include deciduous shade trees and coniferous trees, together with shrubs or other ornamental plants to be placed in the front yard. Rear yard landscaping of the golf course lots shall be designed in such a way as to minimize obstruction of views to the golf course from neighboring properties.
- g. **Fences:** No fence shall be constructed on the lot line or within any required setback on any lot. Galvanized chain-link fences are strictly prohibited. Chain-link fence shall be either black or green in color.
- h. **Accessory Buildings:** No accessory buildings shall be permitted on any lot within the Properties.
- i. **Dog Runs:** Dog runs shall be located immediately adjacent to the dwelling structure, and shall not be located in any required setback.
- j. **Erosion Control During Construction:** Plans shall include erosion control measures which will contain erosion of soil on the lot during construction. Adequacy of erosion control measures shall be subject to continuous review during construction and the Owner shall have the right to require maintenance of silt fences, straw bales or other additional measures if soil is observed to be eroding onto the golf course or abutting lots, or into the street. If, upon notice from Owner to repair, maintain or take additional measures to control erosion, the titleholder of any lot or his contractors fails to comply within 48 hours of delivery of such notice, Owner may take such measures as may be necessary and charge the cost of the measures to the titleholder. Such charges, when shown of record, shall be a lien upon the property and shall bear interest at the rate of 14 percent per annum until paid.

4. **TEMPORARY STRUCTURES:** No partially completed dwelling or temporary building and no trailer, tent, shack, or garage on any lot within the Properties shall be used as either a temporary or permanent residence.

5. **EASEMENTS RELATING TO GOLF COURSE LOTS:** Purchasers and title holders of the golf course lots are hereby notified that golfers will from time to time hit golf balls from the golf course on to the Golf Course Properties and normal operation and maintenance of the Golf Course will involve operation of mowers and other power equipment during the evening and early morning hours. The Owner hereby reserves and establishes easements on the Golf Course Properties in favor of the Golf Course, for (1) intrusion of errant golf shots on to the Golf Course

Properties; and (ii) intrusion of noise from mowing and other power equipment during all hours of the day and night.

The easements granted in this paragraph are for the use and benefit of the Owner and operator of the Golf Course, their successors and assigns, including any lessee, licensee, permittee, or invitee ("Grantee"). Grantee shall also include any person or entity which contracts to operate a golf course or driving range and any golfer who is duly authorized to play golf on the Golf Course.

No Grantee shall have any liability, obligation, or expense to the owner of a lot within the Golf Course Properties in respect of any personal injury or property damage occurring as a result of an errant golf shot which is not negligently, intentionally or recklessly hit, or hit in violation of the rules established by the operator of a golf course or driving range on the Golf Course. The title holder of each lot within the Golf Course Properties, by acceptance of the deed conveying title, hereby covenants not to sue any grantee of the easements granted in this paragraph for property damage or personal injury which results directly or indirectly from an errant golf shot. All title holders of lots within the Golf Course Properties assume all risks associated with errant golf balls and waive any claim or cause of action against Owner, the golf course designer, the golf course builder, the golf course titleholder or operator, and the builder of the residential dwelling for personal injury or property damage arising from any errant golf shots, or for any alleged defect in the golf course design or construction, or in the design or siting of the dwelling.

6. **RECREATIONAL VEHICLES:** No boat, camper, trailer, mobile home, truck, travel trailer, motor home, aircraft, or similar personal property shall be parked or stored upon any lot within the Properties, except within an enclosed structure. Recreational vehicles, as defined in this paragraph, may be temporarily parked or stored upon a lot for a period of time not to exceed 14 days per year.

7. **HOMEOWNERS ASSOCIATION:** Every person or entity who becomes a titleholder of a fee or undivided fee interest in any lot within the Golf Course Properties shall be a member of the Yankee Hill Country Club Homeowners Association. However, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

8. **COMMONS:** There shall be no Commons associated with the Golf Course Properties at the time of initial development. However, if the use of the Golf Course shall be changed to any use other than a golf course, the titleholders of the Golf Course Properties shall have the option to purchase a portion of the Golf Course, that portion being generally described as an approximately 10-acre tract of land adjoining the Golf Course Properties ("Option Lot"). Owner shall, on or before December 31, 1999, file for record a metas and bounds legal description for the Option Lot.

- a. The owner of the Golf Course shall give notice to each titleholder of each of the Golf Course Properties that the use of the Golf Course is going to be changed. Such notice shall specify the change in use and a proposed date such change will occur, which shall be not less than 60 days from the date such notice is received by the titleholders of the Golf Course Properties.

- b. If within 30 days of receipt of such notice, a majority of the titleholders of the Golf Course Properties shall have executed a written instrument expressing their intent to exercise the option to purchase the Option Lot, then such titleholders shall proceed immediately to incorporate a nonprofit corporation (Corporation) for the purpose of acquiring title to the Option Lot and maintaining the same as Commons for the benefit of all owners of the Golf Course Properties. Each titleholder of a lot within the Golf Course Properties shall be a member of the Corporation. However, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.
- c. The Corporation shall have an option to purchase the Option Lot, which option shall be exercisable within 30 days of receipt of an appraisal of the Option Lot as provided in this paragraph.
- d. The Corporation and the titleholder of the Golf Course shall mutually agree upon a licensed appraiser to appraise the real estate described on the Option Lot, which shall value the property on a per-acre basis as raw residential development land, developable at a density equal to the existing density of the Golf Course Properties. If the Corporation and the titleholder of the Golf Course cannot agree on an appraiser, then the Corporation shall choose a licensed appraiser, the titleholder of the Golf Course shall choose a licensed appraiser, and the two appraisers shall choose a third licensed appraiser and the value of the property shall be determined by averaging the value called by the three appraisers; however, each of the three appraisers shall value the real estate on a per-acre basis as raw residential development land, developable at a density equal to the existing density of the Golf Course Properties.
- e. Upon exercise of the option and the purchase of the Option Lot, the Corporation and its members shall have the rights and obligations relative to membership in the association, use of the Commons, and maintenance of the Commons as set forth in paragraphs 10 through 15 below.

9. EASEMENT FOR OPEN SPACE: If a majority of the titleholders of the Golf Course Properties elect not to purchase the Option Lot in accordance with paragraph 8, the titleholders of the Golf Course Properties shall, nevertheless, have a perpetual easement for open space over a strip of land 200 feet in width, running parallel to the rear lot lines of the Golf Course Properties. Such 200-foot strip of land shall be perpetually maintained as landscaped open space and shall not be occupied by structures of any kind.

10. ASSESSMENT FOR PURCHASE OF COMMONS: In the event that Commons are purchased as provided in paragraph 8 above, members of the Corporation shall each be assessed an equal amount for the purchase of the Commons, which assessment shall be levied by the Board of Directors of the Corporation and shall be due and payable on or before the Closing Date. Assessments for the purchase of Commons shall be the personal obligation of the member who is, or was, the title holder of each lot assessed at the time of the assessment, shall bear interest at the rate of 14 percent per annum until paid, and when shown of record, shall be a lien upon the lot assessed.

11. USE OF COMMONS: Each member of the Corporation shall have the right to use and enjoy the Commons and shall have an easement upon the Commons for the use thereof, which shall be appurtenant to the interest requisite for membership.

12. RIGHTS IN COMMONS: The rights and easements of the members of the Corporation shall be subject to:

- a. The right of the Corporation to borrow money for the purpose of improving the Commons and to mortgage the Commons. In the event of default, the mortgagee shall have the right, after taking possession of the Commons, to charge admission and other fees as a condition of the continued use of any recreational facilities within the Commons by the members, and to open the facilities to a wider public until the mortgage debt is satisfied. Any mortgage of the Commons shall be approved by the affirmative vote of two-thirds of each class of members entitled to vote, present in person or by proxy, at a regular meeting of the members or at a special meeting of the members, if notice of the proposed mortgage is contained in the notice of the special meeting.
- b. The right of the Corporation to take any steps reasonably necessary to protect the Commons against foreclosure.
- c. The right of the Corporation to suspend the enjoyment of the facilities by any member for any period during which an assessment remains unpaid, and for a period not to exceed 30 days for any infraction of the published rules and regulations governing the use of the facilities.
- d. The right of the Corporation to charge reasonable admission and other fees for the use of the facilities.
- e. The right of the Corporation to dedicate or convey all or any part of the Commons to any public entity. Any dedication or conveyance shall be approved by the affirmative vote of two-thirds of each class of members entitled to vote, present in person or by proxy, at a regular meeting of the members or at a special meeting of the members, if notice of the proposed dedication or conveyance is contained in the notice of the special meeting.

13. MAINTENANCE OF COMMONS: The Corporation covenants and each member of the Corporation, by the acceptance of a deed by which the interest requisite for membership is acquired, shall be deemed to covenant to maintain the Commons, which covenants by the members shall be satisfied by the payment of annual and special assessments for the administration, maintenance or improvement of the Commons. Annual and special assessments shall be uniform as to each lot or living unit within the Properties. Each assessment shall be the personal obligation of the member who is, or was, the titleholder of the lot or living unit assessed

at the time of the assessment, shall bear interest at the rate of 14 percent per annum until paid, and when shown of record shall be a lien upon the lot or living unit assessed.

14. LIEN OF ASSESSMENTS: The lien of any annual or special assessment shall, until shown of record, be subordinate to the lien of any mortgage placed upon the lot against which the assessment is levied.

15. ANNUAL AND SPECIAL ASSESSMENTS: No annual or special assessment for the administration, maintenance or improvement of the Commons shall be levied by the Corporation until legal title to the Commons has been conveyed to the Corporation; however, special assessments for the acquisition of the Commons shall be levied by the Board of Directors prior to such acquisition. Annual and special assessments, other than for capital improvements, may be levied by the Board of Directors of the Corporation. Any special assessment for capital improvements shall be approved by the affirmative vote of two-thirds of each class of members affected and entitled to vote, at a regular meeting of the members or at a special meeting of the members, if notice of a special assessment is contained in the notice of the special meeting.

16. ADDITIONS: The owner may add additional contiguous or adjacent real estate to the Properties at any time. Additions shall be made by the execution and recordation of Restrictive Covenants upon the additional real estate, making the addition subject to these Restrictive Covenants.

17. NO RIGHTS IN GOLF COURSE: Except as set forth in paragraphs 8 through 15, no titleholder of any lot within the Golf Course Properties or Non-Golf Course Properties shall have any rights in or to any portion of the Golf Course. Use of any portion of the Golf Course shall be exclusively controlled by the titleholder, and subject to all rules, regulations, and restrictions imposed by such titleholder.

18. AMENDMENTS: These Restrictive Covenants shall run with the land and shall be binding upon and enforceable by the Owner and all persons claiming under the Owner. These Restrictive Covenants may be terminated or modified, in writing, by the owners of two-thirds of the lots within the Properties, at any time.

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

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

Dated: February 24, 1998.

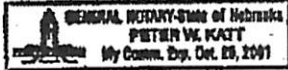
Yankee Hill Development LLC, a limited liability company

By: Dru Lammie

Dru Lammie

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 24th day of February, 1998,
by Dru Lammle, a member of Yankee Hill Development LLC, a Nebraska limited liability
company, on behalf of the limited liability company.



Peter W. Katt
Notary Public

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