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LANCASTER COUNTY, NE

**AVIGATION AND NOISE EASEMENT AND COVENANT AGREEMENT**

INDENTURE made this 17 day of APRIL, 2003, between Lincoln North Creek L.L.C. hereinafter called "Grantor", and Airport Authority of the City of Lincoln, a public body corporate and politic, hereinafter called "Airport Authority":

WHEREAS, Grantor is the owner in fee simple of a certain tract of land situated in Lancaster County, State of Nebraska, more particularly described as:

Lots 94 and 95, irregular Tracts, in the NE 1/4 of Section 28, Township 10 North, Range 6 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska

said tract of land being hereinafter referred to as "Grantor's Land"; and,

WHEREAS, Airport Authority, as an agency of the City of Lincoln, Nebraska, is the owner and operator of a public airport known as Lincoln Municipal Airport situated on land adjacent or in close proximity to the above-described property; and

WHEREAS, Grantor has agreed in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, to grant Airport Authority and City of Lincoln, Nebraska, the following Avigation and Noise Easement and Covenant Agreement for the right of flight and consequent aircraft noise over Grantor's Land.

NOW THIS INDENTURE, WITNESSETH:

Grantor, for itself, its heirs, successors and assigns, for the said consideration, hereby grants and conveys to the City of Lincoln, Nebraska, for the use of Airport Authority, its successors and assigns, a perpetual easement and right-of-way for the unobstructed and unrestricted flight of aircraft in, through and across the airspace over and above

Mail To:  
Johnson Law Office  
6101 S 58<sup>th</sup> St, Suite D  
Lincoln NE 68516

Grantor's Land, at any legally permissible altitude, and the right, to the extent permitted by law, to make noise and cause fumes and disturbance arising from the ground and flight operations of all civil and military aircraft to, from and upon Lincoln Municipal Airport, regardless of the means of propulsion.

And Grantor, for itself, its heirs, successors, and assigns, for the said consideration, do hereby grant and convey to Airport Authority, its agents, servants and employees, a continuing right and easement to remove, mark, light, or to take any action necessary to prevent the erection or growth of any structure, tree or other object into the airspace above Grantor's Land which constitutes an obstruction to air navigation to, from or upon Lincoln Municipal Airport, together with the right of ingress to, egress from, and passage over Grantor's Land in any present or future clear zone approach area for said purposes.

The Grantor, for itself, its heirs, successors, and assigns, do hereby waive all right to and interest in any claim or cause of action against the Airport Authority or the City of Lincoln, arising out of or from any legally permissible noise, vibration, aviations, pollution, light or noise generated from, above or on airport property, or sonic disturbance of any description, caused by flight operations of civil and military aircraft regardless of the means of propulsion, to, from and upon Lincoln Municipal Airport, which may result in damage to land or to any person, structure or other property located upon Grantor's Land, excepting, however, any claim or cause of action for any damage or injury to person or property resulting from any aircraft, or object therefrom, falling on, propelled into, or striking any person or property on Grantor's land.

The Grantor, for the said consideration, further covenants and agrees, that if Grantor or its heirs, successors or assigns, should sell or alienate any portion of Grantor's Land, Grantor, its heirs, successors or assigns shall include in every deed or conveyance evidencing such sale or alienation, a recitation that the grant is subject to all covenants and conditions contained within this Avigation and Noise Easement and Covenant Agreement,

and further as a condition of such transaction, Grantor shall require each Grantee to include such recitation in any subsequent deed or conveyance of any of the property herein above described as Grantor's Land.

In the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained.

It is understood and agreed that these covenants and agreements shall be binding upon the heirs, administrators, executors, and assigns of the Grantor, and that these covenants and agreements shall run with Grantor's Land.

TO HAVE AND TO HOLD said Avigation and Noise Easement and Covenant Agreement hereby granted unto the City of Lincoln for the use of the Airport Authority, its successors, and assigns, as appurtenant to the said Lincoln Municipal Airport and every part thereof.

IN WITNESS WHEREOF, the undersigned has caused his signature to be affixed this 17 day of April, 2003.

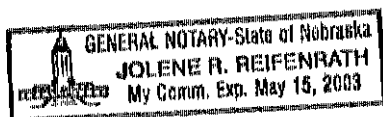
Lincoln North Creek, L.L.C.

By: *Robert D. Hampton*

STATE OF NEBRASKA     )  
                                      ) ss.  
LANCASTER COUNTY

On this 17<sup>th</sup> day of April, 2003, before me, a duly appointed and qualified notary public, personally appeared ROBERT D. HAMPTON to me personally known to be the same and identical person who signed the above and foregoing instrument and he did acknowledge the execution thereof to be \_\_\_\_\_ voluntary act and deed.

WITNESS my hand and seal on the date last aforementioned.



*Jolene R. Reifernath*  
Notary Public