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REGISTER OF DEEDS

2001 JUL -6 P 345

LANCASTER COUNTY, NE

INST. NO 2001

037500

FILED
NO
CODE
PIONEER
GREENS
OFFICE
PARK
ASSOCIATION
INCORPORATED
RECORDED

**RESTRICTIVE COVENANTS
(Office Park)**

Pioneer Greens, L.L.C., a Nebraska limited liability company (the "Owner"), is the owner of the real estate described as follows and shown on the attached Exhibit "A" (the "Property"):

- Lots 1 - 7 and Lots 11 - 13, Pioneer Greens 1st Addition, Lincoln, Lancaster County, Nebraska;
- Lots 1 - 4, Pioneer Greens 5th Addition, Lincoln, Lancaster County, Nebraska; and
- Outlot "A", Pioneer Greens 5th Addition, Lincoln, Lancaster County, Nebraska;

WHEREAS, the Owner has platted the Property via the appropriate platting process through the City of Lincoln, Nebraska, said Administrative Final Plats known as "Pioneer Greens 1st Addition", filed August 30, 1999 as Inst. No. 99-047415, and "Pioneer Greens 5th Addition", filed 6-25-01, 2001 as Inst. No. 01- 34744, both with the Lancaster County Register of Deeds (collectively, and as hereafter amended, the "Plat");

WHEREAS, Pioneer Greens Office Park Association, Inc. has been incorporated in Nebraska for the purpose of enforcing the Restrictive Covenants established upon the Property and administering and maintaining the Commons (as hereinafter defined);

WHEREAS, the Owner desires to (i) ensure the orderly and proper development, maintenance, and use of the Property, in order to protect and preserve the overall character of the Property and its neighborhood in accordance with Owner's desires to develop a quality office park, (ii) enhance and protect the value, attractiveness, and desirability of the Lots constituting the Property, (iii) provide and maintain a uniform set of rules, regulations, and restrictions concerning the construction and use of any structures on the Property, and (iv) provide for the maintenance, use, and operation of the Commons;

NOW, THEREFORE, the Owner does hereby create, establish, adopt, and impose the following covenants, restrictions, and conditions on the Property:

1. DEFINITIONS

For purposes of these Restrictive Covenants, unless the context otherwise requires, the following terms shall have the following meanings:

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"Assessment Units" - those units assigned to each Lot based upon the building area of each Lot as set out in the Use Permit or after the issuance of an occupancy permit as to each building.

"Association" - Pioneer Greens Office Park Association, Inc., a Nebraska nonprofit corporation, established for the purpose of enforcing and maintaining compliance with these Covenants and maintaining and regulating the Commons.

"Commons" - Outlot "A", as described in the first paragraph, together with all improvements thereon and together with such additional common areas as may be subsequently added hereto by written declaration of common grantor filed with the Register of Deeds of Lancaster County, Nebraska.

"Covenants" - these Restrictive Covenants as modified or amended in accordance herewith.

"Declaration" - the written declaration entitled "Pioneer Greens Declaration of Easements and Maintenance Covenants" filed October 13, 1999 as Inst. No. 99-055122, and all subsequent amendments thereto, granting cross-easements for the use of common areas, and pertaining to the Single Family Property, the Townhome Property, and the Office Property, all in Pioneer Greens, and all as defined in such Declaration.

"Lots" or "Lot" - any designated portion of the Property as shown on the Plat with the exception of Commons and streets.

"Lot Owner" - every person or entity who becomes a titleholder of record of a fee or undivided fee interest in any Lot located in the Property.

"Owner" - shall have the meaning set forth in the first paragraph above.

"Pond" - the detention cell on the Commons to provide storm water detention.

"Property" - shall have the meaning set forth in the first paragraph above.

"Use Permit" - shall refer to City of Lincoln, Nebraska Use Permit No. 108 as the same may be amended, modified, or altered with respect to the Property.

2. ASSOCIATION

2.1 MEMBERSHIP: Every Lot Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

2.2 VOTING RIGHTS: The Association shall have two (2) classes of voting membership as follows:

Class A. Class A membership shall include all Lot Owners with the exception of Owner and shall be entitled to one (1) vote for each Assessment Unit allocated to each Lot owned. When more than one (1) person holds an interest in a given Lot, all such persons shall be members and the vote for such Lot shall be exercised as they may determine among themselves; however, the

number of votes for any Lot owned by Class A members shall never exceed the number of Assessment Units allocated to that Lot.

Class B. The Class B member shall be the Owner, who shall be entitled to three (3) votes for each Assessment Unit allocated to each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

3. COMMONS

3.1 **INITIAL IMPROVEMENTS TO COMMONS:** The Owner shall install at its expense all initial privately-owned improvements to the Commons, including, but not limited to, any parking areas, access roads, walkways, driveways, sidewalks, landscaping, lighting, signage, and storm sewers. The Commons may be encumbered in order to fund the expense of such improvements.

3.2 **CONVEYANCE OF COMMONS:** The Owner shall convey the Commons to the Association prior to the date on which the Class B membership in the Association is converted to Class A membership.

3.3 **CONTROL OF COMMONS BY ASSOCIATION:** The Commons shall be subject to the control and management of the Association through its Board of Directors. The Association shall have the right from time-to-time to establish, revoke, modify, and enforce reasonable rules and regulations with respect to all or any part of the Commons.

3.4 **MAINTENANCE OF COMMONS:** The Association covenants and each member of the Association, 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 assessments for the administration, maintenance, or improvement of the Commons and for other purposes of common interest and benefit to members of the Association. The covenant to maintain the Commons shall include insuring the Commons against public liability and property damage. Such insurance shall be in commercially reasonable amounts.

3.5 **COSTS OF ADMINISTRATION, MAINTENANCE, OR IMPROVEMENT OF COMMONS:** All costs of administration, maintenance, or improvement of the Commons shall mean the total cost and expense incurred by the Association in operating, maintaining, repairing, and replacing any facility, utility, and improvement within the Commons. Such costs may include, without limitation, the cost of maintaining and replacing roads, the Pond, parking areas, landscaping, any underground sprinkler system, retaining walls, line painting, and lighting; maintenance of sanitary control; snow and ice removal; rubbish and other refuse removal and control; public liability and property damage insurance premiums; reserves for capital replacements; depreciation on equipment and machinery used in such maintenance; postage, photocopies, telephone and fax charges; and other expenses and personnel required to provide such services and management, together with a reasonable charge for overhead not to exceed ten percent (10%) of the foregoing, or amounts paid to independent contractors for any or all of such services. The Association shall keep accurate records of the costs associated with the administration, maintenance, and improvement of the Commons for the purpose of making assessments as provided by these Covenants.

4. ASSESSMENTS

4.1 DETERMINATION OF ASSESSMENTS: The Board of Directors of the Association shall fix the assessments. Assessments shall be based upon the Assessment Units allocated to the Lots within the Property as provided for in Section 4.4 below. Assessments may be regular or special and payable in such periodic installments as the Board of Directors shall determine. Each member's assessment shall be determined on an annual basis for each fiscal year, prorating fractional years and changes in Assessment Units that may occur by issuance of occupancy certificates.

4.2 PAYMENT The members shall pay assessments to the Association as billed. An estimate of the Association's cost for administration, maintenance, and improvement of the Commons shall be made annually and, at the option of the Board of Directors, each member shall pay one-fourth of the estimated assessment per quarter in advance within thirty (30) days of the date of the statement which shall be the due date. The Bylaws of the Association shall detail more specifically the assessment procedure. Each such assessment shall be the personal obligation of the person who was the Lot Owner at the due date of the assessment, if not paid by such due date shall bear interest at the rate then being charged by Lancaster County for delinquent taxes until paid, and, when shown of record, shall be a lien upon the Lot.

4.3 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.

4.4 ALLOCATION OF ASSESSMENT UNITS: Assessment Units are allocated to the Lots within the Property as follows:

- (a) Any Lot that has not obtained a certificate of occupancy from the City of Lincoln, Nebraska shall be allocated one (1) Assessment Unit per one hundred (100) square feet of building area permitted for the Lot as designated on the site plan for the Use Permit.
- (b) Upon issuance of a certificate of occupancy by the City of Lincoln, Nebraska for any completed improvements on a Lot, such Lot shall be allocated three (3) Assessment Units per one hundred (100) square feet of building area.

The Assessment Units referred to above shall not be cumulative.

5. USE PERMIT

5.1 USE PERMIT: No Lot within the Property shall be used other than as designated under the Use Permit. Lot Owners shall comply with the provisions of the Use Permit as they pertain to each such Lot. All buildings and improvements within the Property shall be constructed in conformity with the applicable zoning and building codes and design standards of the City of Lincoln, Nebraska, and in conformity with the Plans approved pursuant to Section 6.1 of these Covenants.

5.2 AMENDMENTS TO USE PERMIT OR FINAL PLAT: Owner shall have the right at any time to amend the Use Permit or the Plat for the Property. Lot Owners other than the Owner may not amend the Use Permit without the prior written consent of the Owner or, if the Owner has transferred its Section 6.1 rights to the Association, the Association. Members of the Association covenant not to object to any amendment of the Use Permit or the Plat, provided the amendment does not change the approved use for their Lot without their consent. Owner shall have the right to alter the Lot configurations in any Plat amendment that is consistent with the Use Permit. Upon approval by the City of Lincoln, Nebraska of any amendment to the Use Permit or the Plat, the amended document, including the amended use, permitted building area, or Lot configuration, shall govern interpretation of these Covenants.

6. ARCHITECTURAL CONTROL

6.1 ARCHITECTURAL CONTROL; APPROVAL OF PLANS: Plans for any building or other temporary or permanent exterior improvement, including advertising devices, signage, lighting, fences, exterior remodeling, color scheme, glass color, reconstruction, or additions, shall be submitted to the Owner and shall show the design, size, and exterior material for the roof, building, or improvement and the plot plan and landscape plan for the Lot (the "Plans"). One set of the approved Plans shall be left on permanent file with the Owner. Construction of the building or improvement shall not be commenced unless written approval of the Plans has been secured from the Owner. Written approval or disapproval of the Plans shall be given by the Owner within thirty (30) days after the receipt thereof. The Owner shall have the exclusive right to disapprove the Plans, if in the Owner's opinion, the Plans do not conform to the general standard of development in the Property. Upon disapproval, a written statement of the grounds for disapproval shall be provided. The rights and duties of the Owner under this paragraph, except as to Lots of which the Owner is the titleholder, may be assigned to the Association after buildings have been placed or constructed upon three-fourths of the Lots within the Property.

6.2 PLAN APPROVAL STANDARDS - DESIGN COVENANTS: The minimum standards to be applied in the review of Plans for all buildings and improvements constructed, remodeled, or reconstructed within the Property are established in certain Design Covenants adopted by the Owner. These Design Covenants are on file with the Owner and shall be available for review by all Lot Owners, mortgagees, and prospective Lot Owners. Owner reserves the right on behalf of itself, its successors and assigns, and the Association, to revise and amend the Design Covenants subject to the written approval of the holders of two-thirds of the cumulative total of voting rights established without regard to class of membership. Temporary construction office/trailers and temporary equipment storage structures shall not be subject to the Design Covenants. The Owner reserves the right to locate a permanent maintenance structure within the Property that may not strictly conform to the Design Covenants.

7. CONSTRUCTION & MAINTENANCE - LOTS

7.1 COMPLETION OF CONSTRUCTION; OPTION TO REPURCHASE: Any building or other improvement placed or constructed upon any Lot within the Property shall be completed within two (2) years after the commencement of construction. In the event construction has not substantially

commenced within three (3) years from the date title to a Lot is transferred by the Owner, the Owner, or its successors and assigns, shall have the option to repurchase the Lot for the amount paid to Owner for the Lot. Owner may exercise the option by sending written notice to the then titleholder of the Lot.

7.2 EXTERIOR MAINTENANCE: Each member of the Association covenants to maintain their Lot and improvements in a neat and attractive manner. The Association may adopt from time-to-time minimum exterior maintenance standards to establish the minimum acceptable standards for satisfaction of this covenant.

7.3 SPRINKLER SYSTEMS: All Lots within the Property shall have an underground sprinkler system installed on the Lot by the Lot Owner prior to seeding, sodding, or landscaping the Lot. The Owner shall have the right to name the designer of the sprinkler system to assure continuity and compatibility of the individual systems with the overall system of water distribution. Plans for the sprinkler system shall be approved by the Owner prior to installation in accordance with Section 6.1 of these Covenants. The Lot Owners are responsible for maintaining and repairing the underground sprinkler systems on their respective Lots.

7.4 LANDSCAPING: A landscape plan shall be submitted to the Owner as a requirement of Section 6.1 of these Covenants. The plan must meet or exceed the landscape requirements of the City of Lincoln, Nebraska. The landscaping shall be commensurate with the area of the Lot and the size of any building to be constructed. No landscaping will be installed or preparatory work undertaken until the Owner has approved the landscaping plan in writing, including all appropriate phasing. The Lot Owner of each Lot submitting a landscaping plan hereby consents to allow the Owner to submit said plans to the Owner's landscaping contractor of choice to enable such contractor to submit a bid to the Lot Owner of the Lot for the landscaping contemplated under the landscaping plan. Within six (6) months after the completion of construction on any Lot within the Property, the Lot Owner of each Lot shall have installed, and thereafter shall continually maintain any landscaping required under the terms of these Covenants, the Use Permit, and/or the Plans for the Lot. All Lot Owners shall be responsible for maintaining the landscaping in an attractive and healthy manner. These responsibilities include, but are not limited to: watering, weeding, trimming, and replanting.

7.5 MAINTENANCE OF LANDSCAPE SCREENS: The Lot Owner of each Lot within the Property upon which a landscape screen is installed, whether composed of structural or live plant material as required by the City of Lincoln, Nebraska, shall be deemed to covenant to maintain the screen.

7.6 EROSION CONTROL: During construction on any Lot in the Property, the Lot Owner shall control soil erosion in accordance with City of Lincoln, Nebraska requirements, including, but not limited to, the use of an erosion control mat, straw bales, and fencing.

7.7 GRADING: The Owner shall have the exclusive right to establish grades and slopes of all Lots within the Property and to fix the grade at which any building or other improvement shall be placed or constructed upon any Lot, in conformity with the general plan for the development of the Property.

7.8 SPECIFIC ASSESSMENTS: In the event a Lot Owner fails to maintain a Lot according to the requirements of these Covenants, the Association may, upon ten (10) days' written notice to the Lot Owner, maintain the Lot and any improvements thereon as required by these Covenants and shall have the right to enter upon any Lot, at reasonable times, to perform such maintenance. The written notice shall specify the required maintenance and the time in which it must be completed. The actual cost of the maintenance, plus a ten percent (10%) administrative fee, shall be paid by the Lot Owner to the Association within ten (10) days of billing. Upon failure of the Lot Owner to remit payment, the cost of maintenance and administrative fees shall be specifically assessed against the Lot, shall bear interest at the rate then being charged by Lancaster County for delinquent taxes until paid, and, when shown of record, shall be a lien upon the Lot.

8. EASEMENTS

8.1. COMMONS: Every Lot Owner and such Lot Owner's tenants, invitees, and licensees shall have a non-exclusive right and easement of enjoyment in, access to, parking on, and use of the Commons, which easement shall be appurtenant to and shall pass with the title to such Lot, subject to the following rights of the Association:

- (a) The right to suspend the voting rights of any Lot Owner for periods during which assessments against such Lot remain unpaid.
- (b) The right to dedicate or transfer all or any part of the Commons to any municipality, public agency, authority or utility for such purposes and subject to such conditions as may be acceptable to the Board of Directors and agreed by the members. No such dedication or transfer shall be effective unless an instrument executed by two-thirds of each class of members agreeing to such dedication or transfer has been duly recorded.
- (c) The right to establish rules and regulations from time-to-time regarding the use of the Commons.

8.2 RECIPROCAL EASEMENTS: In addition to those easements over and across the Property shown on the recorded Plat, other easements are granted in the Declaration. Such easements grant to members of the Pioneer Greens Homeowners' Association, Inc. and members of the Pioneer Greens Townhome Association, Inc. the rights to use the Commons, in exchange for their contributing a portion of the cost for maintenance and improvement of the Commons.

8.3 NO BUILDING IN UTILITY OR DRAINAGE EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with, or change the direction of flow of drainage facilities in the easements. No building or other structure of any kind shall be built, erected or maintained on any such easement, reservation, or right-of-way, and such easements, reservations and rights-of-way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to the Owner, and its successors and assigns, all of whom shall have

the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any of the purposes for which such easements, reservations and rights-of-way are reserved.

8.4 **MAINTENANCE**: The easement area of each Lot and all improvements therein shall be continuously maintained by the Lot Owner of such Lot, except for improvements or maintenance for which a public authority or utility company is responsible. The Association, through its duly authorized employees and contractors, shall have the right after reasonable notice to the Lot Owner thereof, to enter upon any such Lot at any reasonable hour on any day to perform such maintenance as may be authorized herein.

9. MISCELLANEOUS; ENFORCEMENT

9.1 **AMENDMENTS**: Any amendment, modification, or termination of these Covenants requires the written approval of all of the following: (i) the holders of two-thirds of the cumulative total of voting rights established under Section 2.2, (ii) the Board of Directors of the Association, and (iii) if the proposed amendment, modification, or termination involves a provision governing membership in the Association (other than the conversion of Class B to Class A membership, as contemplated by Section 2.2) or the maintenance of the Commons, the City of Lincoln, Nebraska.

9.2 **NUISANCE**: No noxious or offensive activity shall be conducted or permitted upon any Lot within the Property, nor anything which is or may become an annoyance or nuisance to neighbors or which endangers the health or unreasonably disturbs the quiet of the occupants of the adjoining Lots.

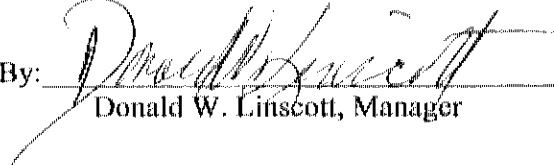
9.3 **ENFORCEMENT**: The enforcement of these Covenants shall be by proceedings at law or in equity, and may be instituted by any of the following against any person or persons violating or attempting to violate any provisions hereof: (i) the Owner, the Association, or any Lot Owner, or (ii) if the proceedings are to enforce the covenants regarding maintenance of the Commons, the City of Lincoln. Such proceedings may be to restrain such violations or to recover damages, and may also be instituted to enforce any lien or obligation created hereby. If the Owner, Association, Lot Owner, or City of Lincoln in any action to enforce these Covenants is successful, they shall be entitled to an award of reasonable attorney's fees and court costs. Failure by the Association, any member thereof, or the City of Lincoln to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so. In the event the Association is dissolved, the Lot Owners shall remain jointly and severally liable for the cost of maintenance of the Commons.

9.4 **SEVERABILITY**: Invalidation of any one of these covenants, restrictions, conditions, easements or reservations by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

9.5 **DURATION**: These Covenants shall run with the land and shall be binding upon the Owner, the Association, the Lot Owners, and all persons claiming title through chain of title from any Lot Owner.

PIONEER GREENS, L.L.C., A Nebraska
limited liability company

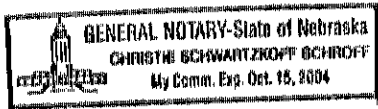
By: Meadow Green LLC, Manager

By: 
Donald W. Linscott, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 20th day of June, 2001, by Donald W. Linscott, Manager of Meadow Green LLC, a Nebraska limited liability company that is Manager of Pioneer Greens, L.L.C., a Nebraska limited liability company, on behalf of both such companies.


Notary Public



APPROVAL BY CITY

The foregoing Covenants are hereby approved by the City of Lincoln, Nebraska for the limited purpose of satisfying the approval requirement in Section 6 of Use Permit No. 108, adopted by the City Council on July 20, 1998.

CITY OF LINCOLN

By: 
Ernest R. (Rick) Peo III
Chief Assistant City Attorney

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 14 day of June, 2001, by Ernest R. (Rick) Peo III, Chief Assistant City Attorney, City of Lincoln, Nebraska, a Nebraska municipal corporation, on behalf of the corporation.



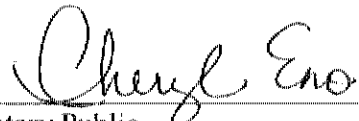

Notary Public

Exhibit "A"

Pioneer Greens

(Office Park)

