



MTG 2007141586



DEC 28 2007 10:01 P 7

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FEE 3550 FB 01-60000  
BKW 29.1612/05 COMP  
1 DEL SCAN FV

After recording, return to:

James Richards Taylor  
17130 21st Avenue Southeast  
Bothell, WA 98012

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
12/28/2007 10:01:21.70



2007141586

# **DEED OF TRUST**

THIS DEED OF TRUST ("Deed of Trust") is made the 18 day of December, 2007, by and among **GOLF PROPERTY INVESTMENTS, LLC** (hereinafter called the "Trustor"), whose mailing address is 7407 North 116th Avenue Circle, Omaha, Nebraska 68142, **JIMMIE L. KUHN**, a member of the Nebraska State Bar Association (hereinafter called the "Trustee"), whose mailing address is 9236 Raven Oaks Drive, Omaha, Nebraska 68152, and **MARVIN GENE TAYLOR** and **JAMES RICHARDS TAYLOR**, Co-Trustees of the **MARJORIE TAYLOR REVOCABLE TRUST, U/A dated September 7, 1993** (hereinafter called the "Beneficiary"), whose mailing address is 17130 21st Avenue SE, Bothell, Washington 98012.

## **WITNESSETH:**

WHEREAS, Trustor is indebted to Beneficiary in the principal sum of Nine Hundred Seventy-Three Thousand Dollars (\$973,000.00), which indebtedness is evidenced by Trustor's promissory note dated of even date herewith in such amount payable to the order of Beneficiary and having a maturity date of October 1, 2008 (hereinafter called the "Note"), and any renewals, modifications, extensions, and substitutions thereof.

NOW, THEREFORE, for the purpose of securing:

(a) payment of the Note, together with interest thereon, and all extensions, modifications, substitutions and renewals thereof; and

(b) payment of all other sums, fees or charges, together with interest thereon, advanced to protect the security of this Deed of Trust and the performance of the covenants and agreements of Trustor, whether or not set forth herein;

all of which is hereinafter collectively called the "Indebtedness", Trustor irrevocably grants, grants a security interest in, and transfers to Trustee, in trust, WITH POWER OF SALE, the following described property:

See Exhibit "A" which is attached hereto and incorporated herein by this reference.

together with (i) all buildings, structures, additions, enlargements, modifications, repairs, replacements, and improvements now or hereafter located thereon, (ii) all equipment, machinery and fixtures (including, without limitation, all lighting, heating, ventilating, cooling, air conditioning, sprinkling and plumbing fixtures, water and power systems, engines, boilers, ranges, ovens, dishwashers, mirrors and mantels, carpeting, furnaces, oil burners, elevators and motors, refrigeration plants or units, communication systems, dynamos, transformers, electrical equipment, storm and screen windows, doors, awnings and shades) now or hereafter attached to, or built in, any building or improvement now or

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hereafter located thereon, (iii) all easements and rights of way appurtenant thereto, (iv) all leasehold estate, right, title and interest of Trustor in and to all leases, whether now or hereafter existing or entered into (including, without limitation, all cash and security deposits, advance rentals and deposits or payments of a similar nature), pertaining thereto, (v) all rents, issues, profits and income therefrom (subject to the right of Trustor to collect and apply such rents, issues, profits and income as they become due and payable so long as no event of default exists hereunder), (vi) all royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, (vii) all tenements, hereditaments, privileges and appurtenances belonging, used or enjoyed in connection therewith, and (viii) all proceeds of conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims (including, without limitation, proceeds of insurance and condemnation awards), all of which is hereinafter collectively called the "Trust Property".

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES AS FOLLOWS:

1. Title. Trustor covenants, warrants and agrees with Beneficiary, its successors and assigns, that Trustor owns the Trust Property free from any prior lien or encumbrance, that this Deed of Trust is and will remain a valid and enforceable first lien on the Trust Property, that Trustor, at its expense, will preserve such title and will maintain this Deed of Trust as a first and paramount lien upon the Trust Property and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever. Trustor, at its expense, will cause this Deed of Trust to be filed and recorded as a mortgage of the Trust Property in such manner and in such place and will take such action as in the opinion of Trustee may be required by any present or future law in order to perfect, maintain and protect the lien of this Deed of Trust, as the same may be amended or supplemented from time to time. Trustor will make such further assurance or assurances to perfect its title to the Trust Property as may be required by Beneficiary. Trustor hereby relinquishes all right of dower and homestead in and to the Trust Property.

2. Payment of Indebtedness. Trustor shall punctually pay the principal of and interest on the Indebtedness secured hereby.

3. Charges; Liens. Trustor will keep the Trust Property free from all liens and encumbrances which in any way may have priority over, or impair the security of, this Deed of Trust but Trustor need not discharge any such lien so long as Trustor shall agree, in writing, to pay the obligation secured by such lien in a manner acceptable to Beneficiary and shall in good faith contest such lien by appropriate legal proceedings effective to prevent the enforcement of the lien and the loss of any interest in or part of the Trust Property.

4. Inspection. Beneficiary or its agents may, at all reasonable times, enter upon the Trust Property for the purpose of inspection. Beneficiary shall have no duty to make such inspection and shall not be liable to Trustor or to any person in possession if it makes or fails to make any such inspection.

5. Protection of Security. If Trustor fails to perform any of the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which does or may adversely affect the Trust Property or the interest of Trustor or Beneficiary therein or the title of Trustor thereto, then Beneficiary, at its option, may perform such covenants and agreements, make such appearances, defend against and investigate such action or proceeding and take such other action as Beneficiary deems necessary to protect its interest. Any amounts disbursed by Beneficiary pursuant to this paragraph 5, shall constitute Indebtedness of Trustor secured by this Deed of Trust. Unless Trustor and Beneficiary agree to other terms of payment, such amounts shall be payable upon notice from Beneficiary to Trustor requesting payment thereof, and shall bear interest from the date of disbursement at the rate contained in the Note. Nothing contained in this paragraph shall require Beneficiary to incur any expense or take any action hereunder. Trustor irrevocably authorizes and empowers Beneficiary to enter upon the Trust Property as Trustor's agent and, in Trustor's name or otherwise to perform any and all covenants and agreements to be performed by Trustor as herein provided. Beneficiary shall, at its option, be subrogated to any encumbrance, lien, claim or demand and to all rights and securities for the payment thereof paid or discharged by Beneficiary under the provisions hereof and any such subrogation rights shall be additional and cumulative security for this Deed of Trust.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Trust Property, or any part thereof, or for conveyance in lieu of or in anticipation of condemnation, are hereby assigned to and shall be paid to Beneficiary. Trustor will file and

prosecute, in good faith and with due diligence, its claim for any such award or payment and will cause the same to be collected and paid to Beneficiary, and, should it fail to do so, Trustor irrevocably authorizes and empowers Beneficiary, in the name of Trustor or otherwise, to file, prosecute, settle or compromise any such claim and to collect, receipt for and retain the proceeds. If the Trust Property is abandoned by Trustor, or, after notice by Beneficiary to Trustor that the condemnor offers to make an award or settle a claim for damages, Trustor fails to respond to Beneficiary within thirty (30) days after the date such notice is mailed, Beneficiary is authorized to collect and apply the proceeds in the manner indicated herein. The proceeds of any award or claim may, after deducting all reasonable costs and expenses, including attorney fees, which may have been incurred by Beneficiary in the collection thereof, at the sole discretion of Beneficiary, be released to Trustor, applied to restoration of Trust Property, or applied to the payment of the Indebtedness. Unless Beneficiary and Trustor otherwise agree in writing, any such application of proceeds to Indebtedness shall not extend or postpone the due date of the Note or the payment of any installments called for thereunder.

7. Forbearance by Beneficiary Not a Waiver. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

8. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently or successively.

9. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary, Trustee, and Trustor. All covenants and agreements of Trustor shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

10. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Trustor provided for in this Deed of Trust shall be given by mailing such notice by certified mail, return receipt requested addressed to Trustor at its mailing address set forth above or at such other address as Trustor may designate by notice to Beneficiary as provided herein, and (b) any notice to Beneficiary or Trustee shall be given by certified mail, return receipt requested, to Beneficiary's and Trustee's mailing address stated herein or to such other address as Beneficiary or Trustee may designate by notice to Trustor as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor, Beneficiary or Trustee when given in the manner designated herein. No notice shall be filed by Trustor and, if filed, be effective against Trustee and Beneficiary with respect to any aspect of this Deed of Trust unless such notice shall have been given first to the Trustee and the Beneficiary as provided in this paragraph.

11. Governing Law; Severability. This Deed of Trust shall be governed by the laws of the State of Nebraska. In the event any provision or clause of this Deed of Trust conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provisions and to this end the provisions of this Deed of Trust are declared to be severable.

12. Events of Default. Each of the following occurrences shall constitute an event of default hereunder (hereinafter called an "Event of Default"):

- a. Trustor shall fail to pay when due any principal, interest, or principal and interest on the Indebtedness;
- b. Any warranty of title made by Trustor herein shall be untrue;
- c. Trustor shall fail to observe or perform any of the covenants, agreements, or conditions in this Deed of Trust;
- d. A trustee, receiver or liquidator of the Trust Property or of Trustor shall be appointed, or any of the creditors of Trustor shall file a petition in bankruptcy against Trustor, or for the reorganization of Trustor

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pursuant to the Federal Bankruptcy Code, or any similar law, whether federal or state, and if such order or petition shall not be discharged or dismissed within thirty (30) days after the date on which such order or petition was filed;

e. Trustor shall file a petition pursuant to the Federal Bankruptcy Code or any similar law, federal or state, or if Trustor shall be adjudged a bankrupt, or be declared insolvent, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, or shall consent to the appointment of a receiver of all or any part of the Trust Property;

f. Trustor shall sell or convey the Trust Property, or any part thereof, or any interest therein, or shall be divested of its title, or any interest therein, in any manner or way, whether voluntarily or involuntarily, without the written consent of Beneficiary being first had and obtained;

13. Acceleration of Debt: Foreclosure. Upon the occurrence of any Event of Default, or any time thereafter, Beneficiary may, at its option, declare all the Indebtedness secured hereby immediately due and payable and, irrespective of whether Beneficiary exercises said option, it may, at its option and in its sole discretion, without any further notice or demand to or upon Trustor, do one or more of the following:

a. Beneficiary may elect to cause the Trust Property or any part thereof to be sold under the power of sale, and in such event, Beneficiary or Trustee shall give such notice of default and notice of sale as may be then required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, Trustee, at the time and place specified by the notice of sale, shall sell such Trust Property, or any part thereof specified by Beneficiary, at public auction to the highest bidder for cash in lawful money of the United States of America. Upon receipt of payment of the price bid, Trustee shall apply the proceeds in the following order: (i) to the cost and expenses of exercising the power of sale and of the sale, including but not limited to, trustee's fees of not more than \$500.00 plus one-half of one percent of the gross sale price, and reasonable attorney fees, (ii) to the Indebtedness, and (iii) the excess, if any, to the person or persons legally entitled thereto.

b. Beneficiary may bring an action in any court of competent jurisdiction to foreclose this Deed of Trust or enforce any of the covenants hereof.

c. Beneficiary may exercise any right or remedy provided for in any other document or agreement with Trustee, or otherwise provided at law or in equity.

All costs and expenses incurred by Beneficiary in enforcing any right under this Deed of Trust, including without limitation, abstract or title fees, appraisal fees, premiums for title insurance, attorney fees and court costs, shall be and constitute Indebtedness secured hereby.

14. Duties of Trustee. Trustor agrees that:

a. Duties and obligations of Trustee shall be determined solely by the express provisions of this Deed of Trust and Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be imposed upon Trustee;

b. No provision of this Deed of Trust shall require Trustee to expend or risk its own funds, or otherwise incur any financial obligation in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers;

c. Trustee may consult with counsel of its own choosing and the advice of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and reliance thereon; and

d. Trustee shall not be liable for any action taken by it in good faith and reasonably believed by it to be authorized or within its discretion or rights or powers conferred upon it by this Deed of Trust.

15. Reconveyance. Upon payment of all Indebtedness secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Trust Property and shall surrender this Deed of Trust and all notes evidencing Indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Trust Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.

16. Substitute Trustee. Beneficiary, at its option, may from time to time remove Trustee and appoint a Successor Trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Deed of Trust is recorded. Without conveyance of the Trust Property, the Successor Trustee shall succeed to all title, power and duties conferred upon Trustee herein and by applicable law.

17. Miscellaneous Rights of Beneficiary. Beneficiary may at any time and from time to time, without notice, consent to the making of any plat of the Trust Property or the creation of any easement thereon or any covenants restricting use or occupancy thereof or agree to alter or amend the terms of this Deed of Trust. Any personal property remaining upon the Trust Property after the Trust Property has been possessed or occupied by Beneficiary, its agent or any purchaser following Trustee's sale, foreclosure, or under any deed in lieu of Trustee's sale or foreclosure, shall be conclusively presumed to have been abandoned by Trustor.

18. Notice to Trustor. Trustor hereby requests that a copy of any notice of default and notice of sale made or executed by Trustee pursuant to the provisions hereof be sent to Trustor at its mailing address set forth hereinabove.

19. Modifications. This Deed of Trust may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

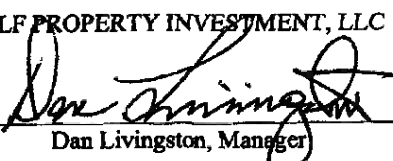
20. Successors in Interest. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, executors, administrators, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the holder and owner, including pledgees, of the Note secured hereby, whether or not named as Beneficiary herein.

21. Severability. If any term of this Deed of Trust or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Deed of Trust, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, this Deed of Trust has been duly executed the day and year first above written.

GOLF PROPERTY INVESTMENT, LLC

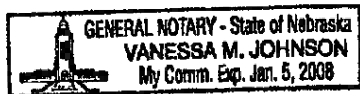
By

  
Dan Livingston, Manager

STATE OF NEBRASKA       )  
                                      ) ss.  
COUNTY OF DOUGLAS     )

The foregoing instrument was acknowledged before me this 18th day of December, 2007, by Dan Livingston, Manager of GOLF PROPERTY INVESTMENTS, LLC, a Nebraska Limited Liability Company, on behalf of the Limited Liability Company.

WITNESS my hand and notarial seal on this the day and year last above written.



  
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Notary Public

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Exhibit "A"

A PARCEL OF LAND BEING ALL OF THE SE 1/4 OF THE NW 1/4 SECTION 28, TOWNSHIP 16 NORTH, RANGE 12 EAST OF THE SIXTH P.M., DOUGLAS COUNTY NEBRASKA,

Except:

A PARCEL OF LAND LOCATED IN THE SE 1/4 OF THE NW 1/4, SECTION 28, TOWNSHIP 16 NORTH, RANGE 12 EAST OF THE 6TH P.M., DOUGLAS COUNTY NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 28; THENCE ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER, S87°37'34"W (ASSUMED BEARING), 50.00 FEET; THENCE N01°36'25"W, 11.05 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT; THENCE ALONG SAID CURVE, HAVING A RADIUS OF 281.00 FEET AND A CHORD BEARING N78°58'24"W, 134.77 FEET, AN ARC DISTANCE OF 135.31 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT; THENCE ALONG SAID CURVE, HAVING A RADIUS OF 330.00 FEET AND A CHORD BEARING N76°34'15"W, 185.91 FEET, AN ARC DISTANCE OF 167.71 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT; THENCE ALONG SAID CURVE, HAVING A RADIUS OF 275.00 FEET AND A CHORD BEARING N78°18'38"W, 122.35 FEET, AN ARC DISTANCE OF 123.38 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT; THENCE ALONG SAID CURVE, HAVING A RADIUS OF 550.00 FEET AND A CHORD BEARING N78°38'24"W, 251.48 FEET, AN ARC DISTANCE OF 253.73 FEET; THENCE S88°08'38"W, 114.02 FEET; THENCE N43°01'17"W, 13.18 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT; THENCE ALONG SAID CURVE, HAVING A RADIUS OF 225.00 FEET AND A CHORD BEARING N01°20'31"E, 25.11 FEET, AN ARC DISTANCE OF 25.12 FEET; THENCE N01°31'22"W, 280.00 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE, HAVING A RADIUS OF 300.00 FEET AND A CHORD BEARING N17°04'36"W, 184.87 FEET, AN ARC DISTANCE OF 198.28 FEET; THENCE S53°59'27"E, 125.00 FEET; THENCE N43°38'57"E, 48.33 FEET; THENCE N48°32'00"E, 71.43 FEET; THENCE N39°33'58"E, 76.28 FEET; THENCE N30°15'21"E, 76.29 FEET; THENCE N20°58'43"E, 76.29 FEET; THENCE N11°38'06"E, 76.29 FEET; THENCE N02°19'28"E, 76.29 FEET; THENCE N02°19'50"W, 120.83 FEET; THENCE N87°40'10"E, 380.84 FEET; THENCE S01°58'23"E, 1131.50 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 14.20 ACRES, MORE OR LESS.