SERVICE AGREEMENT BETWEEN
CITY OF LINCOLN AND TIMOTHY L. ROWLAND

1. **INTRODUCTION.** This Agreement is between the City of Lincoln, Nebraska on behalf of Lincoln Parks and Recreation Department ("City") and Timothy L. Rowland ("Manager"), a PGA Professional, for Holmes Golf Course for services as outlined below. City is the owner of Holmes Golf Course ("Course") and operates municipal golf course and clubhouses therein, and Manager is a Class "A" PGA Professional whom shall serve as golf professional for the business operation of the Lincoln City Golf Program and is qualified to perform these services.

2. **TERM OF LICENSE.** City grants to Manager the exclusive privilege of operating all concessions and rendering professional golf services at the Course and clubhouse for the period of time commencing November 1, 2011, up to and including April 30, 2013, in accordance with the terms and conditions hereinafter set forth. ~~This Agreement may be renewed for one additional three-year term provided that the Manager has complied with all conditions set forth in this Agreement to the satisfaction of the City and subject to the further approval of the Parks & Recreation Director and City Council for the renewal period.~~ CR 11-2-11

3. **GENERAL SERVICES.** Manager and City enter this Agreement for Manager to serve as the Pro-Manager of the Course. Manager shall make professional golf services and concession services available to the patrons of the Course at all reasonable times as determined by the Director of the Parks and Recreation Department. Said services shall include, but not be limited to, the following: operation of the restaurant, the sale of alcohol, clubhouse management, public relations, teaching, coaching, promotion of golf play, leagues, tournaments, rental of pull carts, rental of riding carts, sales and rental of equipment from the pro shop and operation of the driving range.

4. **COMPENSATION.** Manager shall be entitled to the gross proceeds generated by operation of the restaurant, pro shop, alcohol sales, driving range and the provision of golf instruction. In return for promoting rounds played, renting golf carts and keeping the cart fleet clean and presentable as detailed in the Policy and Procedures Manual and this Agreement, the City shall make payment to the Manager as follows:

1st year (Nov. 1, 2011 to April 30, 2013): $2500 per month and $.35 per round.

Manager shall pay all applicable sales taxes, occupation taxes, or other taxes and fees associated with operating the Course and shall indemnify, defend, and hold harmless City for any tax obligations or fees.

5. **SUPERVISION BY MANAGER.** Manager shall supervise all activities within that part of the clubhouse designated by the City for use by the public, supervise and train all personnel in the employ of the Manager, and supervise the performance of such duties and services in clubhouse, golf course, or areas adjacent thereto as may be included in this Agreement, including recreational programs in the areas needed for this purpose, and the Manager or staff shall remain on duty during the entire event for concession sales, and lock the buildings at the close of all events.

6. **MAINTENANCE.** Manager shall keep the clubhouse in a clean and sanitary condition at all times. This shall include the restaurant area, public restrooms, public lounge, pro shop, and

general interior and immediate exterior maintenance. All papers, rubbish, broken and empty bottles, garbage, and other trash accumulating in the operation of the clubhouse shall be picked up by Manager or his designee and placed in suitable containers. Goods, bottles, or containers shall not to be sold, piled, or stored outside of the clubhouse except upon written permission of the City. Manager shall keep concession premises in a neat, clean, orderly, and sanitary condition at all times in conformance with the standards required by the Lincoln-Lancaster County and State Departments of Health. City shall provide refuse containers and be responsible for refuse service.

7. **GOLF CARTS.** Manager shall keep all city golf carts in a clean and safe working condition at all times. This shall include washing and removal of trash after each round, filling ball and club washers when needed, examining each cart for damage after each round, staging golf carts in the morning and securing in the evenings. A yearly visual audit shall be completed by a representative of the City and the Manager. Manager shall assist maintenance staff in fueling and taking care of damaged carts. Every effort should be realized by the Manager and all staff members to reduce cart damage. Any damage that is documented shall be pursued by the Manager. If the Manager is unable to collect from the responsible third party, the City shall be notified and may assist with this collection. Proper cart incident forms shall be forwarded to the Director of the Parks and Recreation Department along with all reasonable effort to collect from responsible party within twenty (20) days of notice of the damage. Any damage that is not documented with the approved forms shall be determined to be the responsibility of the Manager. Any golf cart damage that is documented and cannot be collected shall be shared by the City and the Manager on an equal basis unless otherwise agreed in writing.

8. **MONEY COLLECTION.** Manager agrees to collect greens fees and to issue greens fees tickets/tapes/cash register receipts; motorized golf cart rental fees, memberships, capital improvement fees, surcharges, league fees, and sales tax. Manager shall collect all money, keep records of all such transactions, and properly account for and remit to City documentation of the transactions, including but not limited to any proceeds that are not a part of compensation of the Manager in paragraph 4 such as golf rounds. Manager shall complete a daily sales report, which shall be balanced to match all rounds played, all golf cart rentals, and all sales made. All funds for transactions shall be remitted weekly without delay as specified by the Finance Director of the City. Manager shall submit monthly reports on approved forms in order to be reimbursed for the per round compensation for the previous month if the Course is open for play. Manager and staff shall follow all guidelines outlined within the City's Golf Policy and Procedures Manual.

9. **GOLF COURSE PERSONNEL.** Manager shall employ the needed personnel to conduct the business and carry out the operations associated with the clubhouse, which includes, but is not limited to, the concession operation, collection of fees, and custodial maintenance. All personnel employed for the pro shop counter shall be required to attend and pass a yearly training session conducted by the City and adhere to the golf dress code set forth by the City. These employees will be subject to a probationary period of thirty (30) days upon completion of the training session, and may be subject to dismissal only from the operation of the pro shop counter at the discretion of the City. Minimum operation time shall be determined by City and shall recognize the time of year and playing conditions. Manager shall provide supervisory services for the starting of all golf patrons, monitor the Course at all times, and observe play time on days of heavy play. Manager shall further provide rangers or marshals when play is heavy or playtime starts to slow to an unacceptable pace. Manager shall pay all applicable payroll taxes, social security, medicare, federal and state income tax

withholding, unemployment insurance, and any benefits or other costs for himself and any of his employees or staff for operating the Course and shall indemnify, defend, and hold harmless City for any of these obligations.

10. **IMPROVEMENTS.** Manager shall not remodel the clubhouse or install any permanent fixtures or additions to the clubhouse without first obtaining the written approval of the City. All improvements shall become the property of the City upon termination of this Agreement unless the parties hereto agree otherwise in writing.

11. **ADVERTISING.** Manager shall not display paid advertising outside the clubhouse or generally on the Course. Advertising inside the clubhouse shall be confined to that portion of the clubhouse designated for the exclusive use of Manager. No display signs shall be attached or affixed to the building in any manner, except upon written approval of the City in advance.

12. **CITY EQUIPMENT.** Manager shall exercise general supervision and responsibility for the proper use and care of all equipment and furniture owned by City located in the clubhouse. Such property shall be maintained specifically for the use and convenience of all public users of the clubhouse. An inventory of this property, as taken by a representative of each of the parties, is marked Exhibit "A" and attached hereto and made a part hereof

13. **CITY SUPERVISION.** City reserves the right to exercise general supervision over the Course with respect to advertising on the premises; concessions; kind, character, and quality of goods dispensed; and the cleanliness and sanitation of the buildings and adjacent grounds. Manager shall operate under the provisions of this Agreement in such a manner as to conform with all the ordinances of the City of Lincoln and the laws of the State of Nebraska, and shall give assistance to City in seeking conformity with the ordinances of the City and laws of the State by public users. Further, Manager shall enforce all rules and regulations adopted by City or the Director of Parks and Recreation Department covering the conduct of the public and services offered in the use of park property.

14. **INDEPENDENT CONTRACTOR.** City is interested only in the results produced by this Agreement. Manager and his employees and agents have sole and exclusive charge and control of the manner and means of performance. Manager and his employees and agents shall perform as independent contractors and it is expressly understood that Manager and his employees and agents are not employees of City and not entitled to any City benefits including, but not limited to, overtime, retirement benefits, workers' compensation, sick leave, or injury leave.

15. **FREE PLAY.** Manager, Manager's immediate family, members of the PGA of America, PGA Assistants, members of the LPGA of America, LPGA assistants and GCSAA members may play the Course at no cost. Visiting PGA Professionals, PGA Assistants, LPGA Professionals, LPGA Assistants and GCSAA Members shall play at no charge on a limited basis and shall be tracked by association membership card number. This privilege applies to other City courses as well. The names of the family, PGA members and assistants shall be given to the Director of Parks and Recreation. Except for the preceding, special privileges shall not be granted to anyone under any circumstances. Failure to comply shall result in termination and cancellation of said Agreement.

16. CONCESSION OPERATION. All materials, supplies, and assistance required in the operation of the concession shall be furnished at Manager's expense. Manager shall conduct and operate the concession strictly in accordance with all the ordinances of the City and laws of the State of Nebraska now and hereafter in effect during the terms of this Agreement and in a manner wholly acceptable to the City. Manager shall maintain a current liquor license and obey all laws and rules set forth by the State Liquor Control Commission. Manager shall keep all concession areas open seven (7) days of the week during such hours, meetings, or special events as the City's Director of Parks and Recreation Department shall determine.

17. PGA LICENSE. During the full term of this Agreement, Manager must maintain a Class "A" PGA Golf Professional Classification. Should Manager cease to be a Class "A" Professional, this Agreement shall immediately and automatically terminate and Manager shall no longer be entitled to the rights and privileges granted hereunder.

18. FINANCIAL STATEMENTS. Manager shall submit to City annual financial statements on approved forms of the entire operation covered by the terms of this License Agreement. Said financial statement shall include a detailed operating statement setting forth all operating revenues and personnel service costs and other operating expenses in accordance with the requirements set by the Finance Director of the City. Annual financial statements shall be due by May 1st of each year this Agreement is in force and effect. In the event that this Agreement is terminated, either at its expiration or for any other reason during the course of a calendar year, a financial statement shall be submitted within thirty (30) days of such termination covering the period from the prior financial statement to the date of termination.

19. TERMINATION. It is an express condition of this Agreement that Manager shall perform the Agreement as set out herein. If Manager breaches any of the terms of this Agreement or fails to make payments provided for herein, City may, upon thirty (30) days written notice, cancel and terminate this Agreement if such breach is not cured within the thirty (30) day notice period. City has the right to terminate this Agreement for any reason for its own convenience when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of the City. If City terminates this Agreement for these reasons, City shall provide Manager with thirty (30) days written notice of the termination. Upon termination, City shall pay Manager for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

For good and substantial cause, including but not limited to, continued absenteeism, drunkenness, gambling, or conduct which reflects discredit on the City or is a direct hindrance to the effective performance of this Agreement or in the event City shall conclude that the operation of said concession in any respect is substantially detrimental to the best interest of the City, City may, upon written notice delivered to Manager personally or to the clubhouse, terminate said Agreement and order Manager to vacate the premises within five (5) days, all without further liability to City. The exercise of any remedy provided herein shall not preclude City from exercising any other remedy, legal or equitable, that it may have.

Manager may terminate this Agreement with or without cause by giving one hundred twenty (120) days written notice to City.

20. INSURANCE.

A. Manager shall maintain General Liability Insurance for the Course at its own expense during the life of this Agreement, naming and protecting Manager and City of Lincoln, its officials, employees and volunteers as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations by Manager and Manager's employees, or those directly or indirectly employed by Manager. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

1. All Acts or Omissions - $1,000,000 each Occurrence; $2,000,000 Aggregate; and
2. Bodily Injury/Property Damage - $1,000,000 each Occurrence; $2,000,000 Aggregate; and
3. Personal Injury Damage - $1,000,000 each Occurrence; and
4. Contractual Liability - $1,000,000 each Occurrence; and
5. Products Liability and Completed Operations - $1,000,000 each Occurrence; and
6. Medical Expenses (any one person) - $10,000;
7. Fire Damage (any one fire) - $100,000; and
8. Liquor Liability - $1,000,000 each Occurence.

B. The following shall be provided and attached to this Agreement by Manager:

1. A Certificate of Insurance for its General Liability Insurance. The City of Lincoln shall be specifically named as an additional insured on the General Liability Insurance.
2. Proof of Workers Compensation Insurance, where appropriate.

C. Manager is required to provide City with thirty (30) days notice of cancellation, non-renewal or any material reduction of insurance as required by this Agreement.

21. INDEMNIFICATION. To the fullest extent permitted by law, Manager shall indemnify, defend and hold harmless City, its officers, agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys fees, arising out of or resulting from performance of this Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by the intentional or negligent act or omission of Manager, its employees, or anyone for whose acts any of them may be liable. This section shall not require Manager to indemnify or hold harmless City for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of City. City does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law. This section survives any termination of this Agreement.

22. RISK OF LOSS. City shall not be responsible for the property of Manager kept, stored, or maintained on the Course or leased premises and assumes no responsibility for loss of Manager's property through fire, theft, pilferage, malicious mischief, or any other happening whatsoever.

23. INSPECTION AND AUDIT. Manager shall be subject to audit pursuant to Lincoln Municipal Code Chapter 4.66 and shall make available to a contract auditor of City, as defined therein, copies of all financial and performance related records and materials germane to this Agreement, as allowed by law. It is understood and agreed between the parties that the operation and services performed by Manager under this Agreement shall be subject at all times to inspection and control by designated representatives of the City. Manager shall confer only with said representatives on all problems of general policy in connection with this Agreement.

24. FAIR EMPLOYMENT AND OPPORTUNITY. Manager shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such persons race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to the requirements of Lincoln Municipal Code Chapter 11.08, and Neb. Rev. Stat. § 48-1122, as amended; nor shall Manager nor anyone acting under or by virtue of the terms of this Agreement discriminate against any such patron of said golf course or against anyone else because of race, color, religion, sex, disability, national origin, ancestry, age or marital status.

25. FAIR LABOR STANDARDS. Manager shall maintain Fair Labor Standards in the performance of this Agreement, as required by Chapter 73, Nebraska Revised Statutes, as amended.

26. NEBRASKA LAW. This Agreement shall be governed and interpreted by the Laws of the State of Nebraska without reference to the principles of conflicts of law.

27. INTEGRATION, AMENDMENTS, ASSIGNMENT. This Agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Agreement. This Agreement may be amended only by written agreement of both parties. This Agreement may not be assigned or sold, nor the premises sublet in whole or in part by Manager without the prior written consent of City.

28. SEVERABILITY & SAVINGS CLAUSE. Each section and each subdivision of a section of this Agreement is hereby declared to be independent of every other section so far as inducement for the acceptance of this Agreement and invalidity of any section of this Agreement shall not invalidate any other section.

29. E-VERIFY. Manager shall complete the United States Citizenship Attestation Form as provided by the City and attach it to the Agreement.

30. CAPACITY. The undersigned person does hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind Manager to this Agreement.

IN WITNESS WHEREOF, Manager and City do hereby execute this Agreement.

Manager Signature: _____

Print Name and Address: TIM ROWLAND

727 W. JENNIFER DR.

LINCOLN, NE 68521

Mayor's Signature: _____

Date of Execution: _____

UNITED STATES CITIZENSHIP ATTESTATION FORM

For the purposes of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

✓ I am a citizen of the United States.

OR

_____ I am a qualified alien under the Federal Immigration and Nationality Act. My immigration status and alien number are as follows:_____
_____, and I agree to provide a copy of the USCIS (United States Citizenship and Immigration Services) documentation upon request required to verify the Manager's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program. I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete and accurate and I understand that this information may be used to verify my lawful presence in the United States. I understand and agree that lawful presence in the United States is required and the Manager may be disqualified or the Agreement terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

PRINT NAME: TIM ROWLAND
(First, Middle, Last)

SIGNATURE: [signature]

DATE: 10/31/11

INVENTORY OF PROPERTY OWNED BY THE LANDLORD
AT HOLMES GOLF COURSE

Asset #	Qty.	Description	Cost
		Qualifying Fixed Asset Inventory	
01116	1	Manitowac Ice Machine	$1,270.00
02517	40	Vinyl Chairs	$1,240.00
02529	1	Randell Double Door Refrigerator	$1,379.00
03467	1	True Reach Freezer Model T23F	$2,073.00
03622		Cash Register/POS System Consisting of:	
	3	Pentium PC	
	1	MMF Cash Drawer, Model ECD 200	$169.00
	1	HP Deskjet Printer, Model 960	$269.00
	1	Logic Controls Keyboard, Model KB 3000	$288.00
	1	Metrologic Bar Code Scanner, Model MS 951	$289.00
	1	Epson Receipt Printer, Model TM-T8811	$399.00
		Miscellaneous System Components	$622.00
14714	1	Telerad Telephone System	$1,970.00
		Non-Qualifying Fixed Asset Inventory	
	10	4' Square Restaurant Tables	$500.00
	1	Bogen Amplifier, Model NE 7970	$305.00
	1	Windsor Upright Speaker System	$449.00
	1	Panasonic Microwave Oven, Model NE 7970	$267.00
	1	Sony Camera DSC-W560	$180.00
	1	Phillips AED Unit, Model H S I	$900.00

Inventoried by Tim Rowland & Dale Hardy
October 31, 2011

Client#: 45787 TLRIN

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/26/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
INSPRO Insurance
P.O. Box 6847
Lincoln, NE 68506
402 483-4500

CONTACT NAME: Jennifer Trevarrow
PHONE (A/C, No, Ext): 402-484-4895 FAX (A/C, No): 402-483-7977
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Nationwide Insurance	00035
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
TLR, Incorporated
3403 West Van Dorn
Lincoln, NE 68522

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			ACP7261280265	03/28/2011	03/28/2012	EACH OCCURRENCE	$2,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$300,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$5,000
							PERSONAL & ADV INJURY	$2,000,000
							GENERAL AGGREGATE	$4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$4,000,000
	POLICY PRO-JECT LOC							$
A	AUTOMOBILE LIABILITY			ACP7261280265	03/28/2011	03/28/2012	COMBINED SINGLE LIMIT (Ea accident)	$2,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
A	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			ACP7261280265	03/28/2011	03/28/2012	X WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N Y (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$100,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$100,000
							E.L. DISEASE - POLICY LIMIT	$500,000
A	Liquor Liability			ACP7261280265	03/28/2011	03/28/2012	$2,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
RE: Holmes Lake Golf Course and Pioneers Golf Course
City of Lincoln is listed as additional insured

CERTIFICATE HOLDER

City of Lincoln
Parks & Recreation
2740 A Street
Lincoln, NE 68502

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

James D. Mibbed

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