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PAGE 101-102

Bonnie L. Myrland
RECORDED IN HENDRICKS COUNTY

DECLARATION OF
HORIZONTAL PROPERTY OWNERSHIP
WING'S CONDOS
HORIZONTAL PROPERTY REGIME

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THIS DECLARATION, made this 30th day of November, 1984, by the "Declarants," LOWELL E. WING and SHIRLEY J. WING, husband and wife,

WITNESSETH:

A. Declarants are the fee simple owners of the following "Tract" or "Property," being certain described real estate, located in Hendricks County, Indiana, to wit:

A part of the West half of the Southeast quarter of Section 11, Township 16 North, Range 1 East of the Second Principal Meridian in Hendricks County, Indiana, being more particularly described as follows:

Commencing at an iron pin found marking the northeast corner of Lot numbered four (4) in Salmon's Addition to the Town of Brownsburg, Indiana as per plat thereof recorded in Plat Book 3, page 76 in the office of the Recorder of Hendricks County, Indiana; thence South 68 degrees 30 minutes 00 seconds East along the southern right-of-way line of U.S. 136 (Crawfordsville Road) as now located and established and thru Eastern Street 42.43 feet to the intersection of said southern right-of-way and the east right-of-way line of Eastern Street, as now located and established; thence South 02 degrees 01 minute 00 seconds West along said east right-of-way line 231.98 feet to the POINT OF BEGINNING; thence continue South 02 degrees 01 minute 00 seconds West along said east right-of-way line 121.19 feet; thence South 87 degrees 59 minutes 00 seconds East 133.00 feet; thence North 00 degrees 34 minutes 44 seconds East 124.49 feet; thence North 89 degrees 25 minutes 16 seconds West 129.92 feet to the Point of Beginning. Containing 0.37 acre, more or less and subject to all legal highways, rights-of-way and easements of record

B. Declarants, by execution of this Declaration or a Supplemental Declaration or Declarations, create a Horizontal Property Regime ("the Regime") upon the tract, subject to the provisions of the Horizontal Property Act of the State of Indiana and the terms and conditions of this Declaration.

NOW, THEREFORE, Declarants hereby make this Declaration as follows:

1. Definitions. The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

- (a) "Act" means the Horizontal Property Act of the State of Indiana, Acts 1963, Chapter 349, Sections 1 through 31, as amended. The Act is incorporated hereby by reference.
- (b) "Association" means the incorporated association of Co-Owners of the "Regime," more particularly described in paragraph 13.

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- (c) "Association" means the incorporated association of Co-Owners of the "Regime," more particularly described in paragraph 13.
- (d) "Board of Managers" means the governing body of the Association elected by the Co-Owners in accordance with the By-Laws. The term "Board of Managers," as used herein and in the By-Laws, shall be synonymous with the term "Board of Directors" as used in the Act.
- (e) "Building," if and when used, shall mean and be the same as "Dwelling Unit," or "Dwelling Units" where more than one such unit is contained in one edifice.
- (f) "By-Laws" means the By-Laws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. A true copy of the By-Laws is attached to this Declaration and incorporated herein by reference.
- (g) "Common Areas" means the common areas and facilities appurtenant to the Property as defined in paragraph 6 of this Declaration.
- (h) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Limited Areas, except as otherwise expressly provided in this Declaration or the By-Laws, and all sums lawfully assessed against the Owners by the Association or as declared by the Act, this Declaration or the By-Laws.
- (i) "Co-Owners" means the Owners of all the Dwelling Units.
- (j) "Declarants" means the Owners of the real estate described at the time of the filing of this Declaration, and their successors and assigns of their interest herein, other than those persons who purchase Dwelling Units by deed from the Declarants, unless the conveyance indicates an intent that grantee become the Declarant.
- (k) "Dwelling Unit" means one of the individual units constituting "the Regime," each individual unit being more particularly described and identified on the Plans and in paragraphs 4 and 5 of this Declaration.
- (l) "Formula" means the method set forth in paragraph 16 of this Declaration for computing the adjustment to be made to the Percentage Interest applied to each Dwelling Unit as each Section is annexed.
- (m) "Storage Areas" shall mean storage areas intended and designed to serve and be used exclusively by the Owner of a particular Dwelling Unit, if any, as shown and designated on the Plans.

- (n) "The Regime" means the name by which the Property and Horizontal Property Regime shall be known.
- (o) "Limited Areas" means the limited common areas and facilities defined in paragraph 7 of this Declaration.
- (p) "Mortgagee" means the holder of any mortgage lien on a Dwelling Unit.
- (q) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who owns the fee simple title to a Dwelling Unit.
- (r) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas and Limited Areas appurtenant to each Dwelling Unit as determined in accordance with paragraph 8 and 16 of this Declaration.
- (s) "Percentage Vote" means that percentage of the total vote accruing to all of the Dwelling Units which is applicable to each particular Dwelling Unit and accrues to the Owners thereof. The Percentage Vote to which each Owner shall be entitled on any matter upon which the Co-Owners are entitled to vote shall be the same percentage as the Percentage Interest applicable to such Owner's Dwelling Unit.
- (t) "Section" means a part of the Tract upon which Dwelling Units are constructed and annexed to "the Regime" as provided in paragraph 16.. This Section shall be identified by an Arabic numeral designation.
- (u) "Plans" means the floor and building plans of the Buildings and Dwelling Units in Section 1, and a site plan, survey and elevation of the Section and Buildings, duly certified, all of which is incorporated herein by reference. "Plans" also shall include the Supplemental Plans which shall be prepared, verified and filed with each Supplemental Declaration, depicting the layout, elevation, location, building numbers and Dwelling Unit numbers, and dimensions of the Dwelling Units which are constructed on the Sections of the Tract when and if annexed to and made a part of "the Regime."
- (u) "Property" means the Tract and appurtenant easements, the Dwelling Units, the Buildings, improvements, and property of every kind and nature whatsoever, real, personal and mixed, and all replacements thereof, now or hereafter located upon the Tract and used in connection with the operation, use and enjoyment of "the Regime."
- (v) "Tract" means the total real estate described in paragraph A above, of which the respective Sections will be a part and set out fully in Exhibit "B."

(w) "Tract" means the total real estate described in paragraph A above, of which the respective Sections will be a part and set out fully in Exhibit "B."

2. Declaration. Declarants hereby expressly declare that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Act.

3. Description of Dwelling Units. There are three (3) Dwelling Units in Section 1, as shown on the Plans. The Dwelling Units are identified and referred to in the Plans and in this Declaration as Dwelling Units lettered A, B and C, inclusive. The Dwelling Units in the Additional Section or Sections, if annexed, shall be identified alphabetically the exact number of Dwelling Units to be identified and referred to in the Supplemental Declaration and Supplemental Plans annexing such Section or Sections to "the Regime."

4. Identification of Dwelling Unit. Each Dwelling Unit is also identified by a letter on the Plans, same referring to the individual Dwelling Unit.

The legal description for each Dwelling Unit shall consist of the letter designation of the particular Dwelling Unit.

5. Further Description of Dwelling Units.

(a) Appurtenances. Each Dwelling Unit shall consist of all space within the boundaries thereof as hereinafter defined and all portions thereof situated within such boundaries, including, but not limited to, all fixtures, facilities, utilities, equipment, appliances, and structural components designated and intended solely and exclusively for the enjoyment, use and benefit of the Dwelling Unit wherein the same are located, or to which they are attached, for the use, benefit, support, safety or enjoyment of any other Dwelling Unit or which may be necessary for the safety, support, maintenance, use and operation of any of the Dwelling Units or which are normally designed for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Dwelling Unit shall constitute a part of such Dwelling Unit, whether or not the same is located within or partly within or without the boundaries of such Dwelling Unit.

(b) Boundaries. The boundaries of each Dwelling Unit shall be shown on the Plans and will include all areas to the outside surfaces of all perimeter construction of the Dwelling Units, including garages. In the case of attached Dwelling Units or Dwelling Units consisting of two stories, the vertical boundaries shall run from the upper surface of the lowest floor joist or slab to the upper surface of the roof, except as otherwise provided in paragraph 5(a). In such attached Dwelling Units, the horizontal boundaries shall be the exterior surface of the perimeter inside walls of the

respective Dwelling Units, including the garages. In the event of any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling of the Dwelling Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Dwelling Unit shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Dwelling Unit in and to such space lying outside of the actual boundary line of the Dwelling Unit, but within the appropriate area of the Dwelling Unit.

6. Common Area and Facilities. Common areas mean and include (1) the Tract, (2) the respective Sections contained in that Tract, (3) the yards, gardens, sidewalks and driveways, except for those driveways designed to serve particular individual garage units, (4) central electricity, gas, water, and sanitary sewer mains serving the Dwelling Units, (5) exterior lighting fixtures and electrical service, except where separately metered to a particular Dwelling Unit, (6) pipes, ducts, electrical wiring and conduits, public utility lines and central television antenna wiring, (7) all facilities and appurtenances located outside of the boundary lines of the Dwelling Units, except those areas and facilities expressly defined as Limited Areas.

7. Limited Common Area and Facilities. Limited Areas and those Dwellings to which the use thereof is limited are as follows:

- (a) Storage Area Spaces. Storage Areas, if any, shall be limited to the exclusive use of a particular Dwelling Unit as designated on the Plans. The exclusive use of such Storage Areas shall pass with title to the Dwelling Unit for which such Area is designated, even though not expressly mentioned in the document passing title. The Storage Areas and use thereof shall be subject to such rules and regulations as the Board of Managers may deem appropriate and adopt. An Owner may grant a license to any other Owner to use all or part of his Storage Area, provided such license shall expire when the Owner granting the license ceases to be an Owner of the Dwelling Unit for which the Storage Area is designated. Any such license agreement shall be in writing and an executed copy thereof shall be furnished to the Board of Managers and the licensee shall be bound by and subject to all the obligations of the Owner with respect to such Storage Area; provided, however, that the Owner granting such license shall not be relieved thereby from any of his obligations regarding such Storage Area.
- (b) Entranceways. The entranceways through which access to a Dwelling Unit is obtained is limited to the use of the Dwelling Unit or Dwelling Units served by such entranceway.
- (c) Patios and Balconies. The patios, balconies, courtyards and

decorative walls and fences are limited to the use of the Dwelling Unit or Dwelling Units to which they are appurtenant as designated.

- (d) Driveways. The driveways, walkways, and similar areas used for access to particular individual Dwelling Units serving such Dwelling Units are limited to the use of the Dwelling Unit so served.

8. Ownership of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas and Limited Areas as tenants in common with all other Owners equal to his Dwelling Unit's Percentage Interest. Each Dwelling Unit's Percentage Interest in the Common Areas and Limited Areas shall be determined in accordance with the Formula set forth in paragraph 16 of this Declaration.

If the Regime consists only of Section 1, each Dwelling Unit's Percentage Interest shall be that as each Unit bears to all units in the Section. If any Sections are annexed, as permitted and contemplated by paragraph 16 of this Declaration, upon execution of the applicable Supplemental Declaration, the Percentage Interest of each Dwelling Unit in the Section or Sections which are a part of the Regime prior to such annexation will automatically reduce in accordance with the Formula. The Owners of Dwelling Units in the Section or Sections which are a part of the Regime prior to such annexation shall be granted and receive a Percentage Interest in the Common Area of such Section of the Additional Tract being annexed, the precise Percentage Interest to be determined according to the Formula and designated in the Supplemental Declaration annexing Percentage Interest as set forth in this paragraph.

The Percentage Interest appertaining to each Dwelling Unit as determined by paragraph 16 shall also be the Percentage Vote allocable to the Owner thereof in all matters with respect to the Regime and the Association upon which the Co-Owners are entitled to vote, but not limited to, the election of the Board of Managers.

9. Encroachments and Easements for Common Areas. If, by reason of the location, construction settling, or shifting of a Dwelling Unit, a Common Area or Limited Area, now encroaches or shall hereafter encroach upon any Dwelling Unit, then in such event an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use, and enjoyment of such Common Area or Limited Area.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines, and other common facilities.

10. Real Estate Taxes. Real Estate taxes are to be separately taxed to each Dwelling Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Dwelling Unit, but are assessed and taxed on the Tract, or a part thereof, as a whole, then each Owner shall pay his proportionate

share of the real estate taxes. Each Owner's proportionate share will be determined as follows:

- (a) With respect to the real estate taxes assessed against the land, the amount of such taxes shall be made according to the Percentage Interest and the Formula and will apply to all real estate in Sections effectively brought into the Horizontal Property Regime. Declarants will pay for the taxes on the real estate until annexed, at which time the Owners will pay all of the same according to the Percentage Interest.
- (b) With respect to the real estate taxes assessed against the improvements, the respective Owners will be fully obligated to pay the amounts assessed against same.
- (c) All other taxes assessed against the real estate or improvements shall be calculated by the Formula and paid for according to the Percentage Interest.

11. Utilities. Each Owner shall pay for his own utilities, which are separately metered. Utilities which are not separately metered shall be treated as and paid for as part of the Common Expenses.

12. Easement for Utilities and Public and Quasi-Public Vehicles. All public and quasi-public vehicles, including, but not limited to, police, fire, and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles, shall have the right to enter upon the streets, Common Areas and Limited Areas of "the Regime" in performance of their duties. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing, and maintaining of such utilities, including, but not limited to, water, sewers, gas, telephones, and electricity on the property; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as initially designed and approved by Declarants or as thereafter may be approved by the Board of Managers. By virtue of this easement, the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain electric and telephone wires, circuits and conduits on, above, across land under the roofs and exterior walls of the Buildings.

13. Association of Owners. In order to provide for the maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Act, there is hereby created an association of Co-Owners of the Dwelling Units in "the Regime" to be known as the Wing's Condos Co-Owners' Association. Each Owner shall be a member of the Association, but membership shall terminate when such person ceases to be an Owner, and such membership will be transferred to the new Owner.

The Association shall elect a Board of Managers annually in accordance with and as prescribed by the By-Laws. The Co-Owners shall

be entitled to cast their Percentage Vote for the election of the Board of Managers.

The Board of Managers shall be the governing body of the Association, representing all of the Co-Owners in providing for the management, maintenance, repair, replacement and upkeep of the property.

14. Maintenance, Decoration, Repairs and Replacements. The Co-Owners' Association will be responsible for the maintenance, repairs, decoration and replacement of the exterior of each Dwelling Unit except the glass portions. The Board of Managers reserve the exclusive right to determine the outside decor of each Dwelling Unit inclusive, but not exclusive of, color and paint, and all decor appurtenant to the aesthetics of each individual unit. Exclusive of those aesthetics that are visible from outside the Dwelling Units, Owner shall control and reserve the right of decor of this Dwelling Unit on the inside. Each Owner shall repair any defect occurring in his Dwelling Unit which, if not repaired, might adversely affect any Dwelling Unit, Common Area or Limited Area. Maintenance, repairs, replacements and upkeep of the Common Areas shall be furnished by the Association as part of the Common Expenses.

15. Alterations, Additions and Improvements. No Owner shall make any alterations or additions to the Common Areas or Limited Areas without the prior written approval of the Board of Managers, nor shall any Owner make any alterations to his respective Dwelling Unit and within the boundaries thereof which would adversely affect the safety or structural portion of the Dwelling Unit.

16. Expansion by Sections. Declarants anticipate that they will construct additional Dwelling Units on the Additional Sections by expansion within the Tract, all or part of which may be expanded in the manner hereinafter set forth, and subject to the provisions of the Act. The general plan of development to be consistent in the number of Dwelling Units per Section as contained for and upon Exhibit "A" (Section 1) and the maximum number of Dwelling Units to be contained in the Tract (Exhibit "B") is 9. A time limit, not exceeding ten (10) years, shall be the limit where additional Sections may be added.

At any time prior to October 1, 1994, Declarants, at their option, may, but are not obligated to, cause all or part of the Additional Section or Sections within the Tract to be expanded subject to the following conditions:

- (a) Another Section or Sections may be annexed if the Dwelling Units to be constructed in such Section or Sections have been substantially completed and the Supplemental Plans to be filed with the Supplemental Declaration are completed, certified to by the engineer or architect as fully and accurately depicting the layout, location, and dimensions of the Dwelling Units. Declarants shall reserve the right to determine the developmental standards of each Section.
- (b) The Dwelling Units on any Section to be annexed shall be

constructed with labor and material of comparable quality to the Dwelling Units previously constructed although not necessarily of similar type floor plan, design or exterior.

- (c) Declarants, or their assigns, shall be the sole owners of the fee simple title to the Section or Sections to be annexed.

Declarants expressly reserve the right not to annex any or all of the Tract in Sections after Section 1. No owner shall acquire any rights whatsoever in the Tract except as to those Sections which are annexed to and made a part of the Horizontal Property Regime. After each Section is completed according to the plans, Declarants may turn that Section over to the Co-Owners, at which time those Co-Owners owning Dwelling Units in the Section or Sections being turned over shall then incur and pay all Common Expenses attendant with that Section or Sections according to the Formula and their respective Percentage Interest.

17. Percentage Interest. The Owner of each Dwelling Unit shall have the same Percentage Interest and Percentage Vote as all other such Owners and there will be no differentiation based upon the size of such Dwelling Unit. Each Owner shall be equal as to Percentage Interest and Percentage Vote.

The Percentage Interest appurtenant to each Unit shall be computed and, upon the annexation of an Additional Section or Sections, same shall be recomputed dividing among the then-existing Dwelling Unit Owners equal share to the extent that the total shares at all times equal 100%, or is as close to 100% as is mathematically possible, having regard to the equality of shares of each Owner.

As each Section is developed, Declarants shall record a Supplemental Declaration annexing and adding such Section to this Declaration and making it a part of "the Regime." Declarants reserve the right to annex additional Sections thereof that are not necessarily in numerical order shown on the Plans. Such Supplemental Declaration shall contain the following:

- (a) A description of the real estate to be annexed;
- (b) A description of othe Dwelling Units described in a manner consistent with this Declaration;
- (c) The Percentage Interest of all Dwelling Units upon annexation, computed in accordance with the Formula.

Each Owner, by acceptance of a deed to a Dwelling Unit, acknowledges, consents, and agrees that the following rights and conditions shall be applicable upon the recording of each Supplemental Declaration:

- (a) The Section described in each Supplemental Declaration shall be governed in all applicable respects by the provisions of this Declaration.

- (b) The Percentage Interest applicable to each Dwelling Unit shall be automatically reallocated in accordance with the schedule set forth in such Supplemental Declaration, which shall be based upon the Formula. On recording of each Supplemental Declaration, the amount by which the Percentage Interest of a Dwelling Unit is reduced thereby shall be deemed to release and divest that amount from such Dwelling Unit Owner and revert to the Declarant, its successor and assigns.
- (c) Each deed, mortgage, or other instrument affecting a Dwelling Unit shall be deemed given subject to the limitation that the Percentage Interest appurtenant to each Dwelling Unit shall be, upon the recording of each Supplemental Declaration, altered in accordance with the Supplemental Declaration based upon the Formula.
- (d) The Percentage Interest in the Common Areas and Limited Areas appurtenant to each Dwelling Unit shall be deemed to include any additional Common Areas and Limited Areas annexed hereto by a Supplemental Declaration, which Supplemental Declaration shall grant and convey to the Owners the appropriate Percentage Interest, and each deed, mortgage, or other instrument affecting a Dwelling Unit shall be deemed to include such additional Common Areas and Limited Areas, and the ownership of any Dwelling Unit and lien of any mortgage shall automatically include and attach to such additional Common Area and Limited Area upon recording of such Supplemental Declaration.
- (e) The Recording of a Supplemental Declaration shall not alter the amount of the lien for Common Expenses assessed to a Dwelling Unit in a Section already a part of the Regime prior to such recording. The lien for the prorata share of Common Expenses for the Sections annexed upon such recording shall be assessed and paid as provided in the By-Laws.
- (f) Each Owner agrees for himself and all those claiming under him, including Mortgagees, that this Declaration and each Supplemental Declaration is and shall be deemed to be in accordance with the Act and for the purpose of this Declaration and the Act, any changes in Percentage Interest as set forth in any Supplemental Declaration which is in accordance with the Formula expressed herein, shall be deemed to be made by agreement of all Owners.
- (g) Each Owner agrees to execute and deliver such documents as are necessary or desirable to accomplish the annexation of the Sections in the Tract in accordance with the provisions and intent of this paragraph 17.
- (h) Each Owner, by acceptance of a deed to a Dwelling Unit, shall thereby appoint Declarants or their nominee as such Owner's attorney-in-fact for the purpose of reallocating from time to time the Percentage Interest appurtenant to

- (a) Provide that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to paragraph 20, and,
- (b) Contain a "Replacement Cost Endorsement."

Such insurance coverage shall be for the benefit of each Owner and the Association and, if applicable, the Owner's Mortgagee. The proceeds shall be payable to the Association who shall hold such proceeds as trustee for the individual Owners and Mortgagees as their interests appear. The proceeds shall be used or disbursed only in accordance with the provisions of this paragraph 19 and paragraph 20 of the Declaration, as applicable, and any surety bond or bonds obtained by the Board covering the officers of "the Regime" as provided in the By-Laws shall specifically include protections for any insurance proceeds so received.

The Association also shall obtain comprehensive public liability insurance in such limits as the Board of Managers shall deem appropriate, together with Workmen's Compensation Insurance and other liability insurance, if so deemed necessary or appropriate by the Board of Managers. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Managers, and any Managing Agent or company acting on behalf of the Association. The Owners, as well as the Lessees, if any, shall be able to recover losses insured where applicable.

Each Owner shall have the right to purchase additional insurance as he may deem necessary, and each Owner shall be solely responsible for loss or damage to the contents of his own Dwelling Unit, however caused, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and his personal property stored elsewhere on the Property. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk including, but not limited to, living expenses.

20. Casualty and Restoration. In the event of damage or destruction of the Property by fire or other casualty, the following provisions shall be applicable:

- (a) Partial Destruction. In the event that less than two-thirds of the Dwelling Units in any Building are destroyed by the occurrence of fire or other casualty, then such Unit shall be promptly repaired and restored. The proceeds of the insurance shall be applied to the cost of such restoration. If the insurance proceeds are not adequate to cover the cost of reconstruction or in the event there are no proceeds, each individual Owner shall have the responsibility for restoring his own Dwelling Unit at his own expense. The division of such Proceeds shall be determined by the Board of Managers of the Association, and when so determined in good faith shall be binding upon all Owners and Mortgagees where several Dwelling Units are located in the same Building and are partially destroyed.

- (b) Restoration in the Event of Two-Thirds Destruction. In the event that more than two-thirds of the Dwelling Units in any Building are destroyed by fire or other casualty, then restoration of the Dwelling Units must be approved within one hundred twenty (120) days from the date of damage or destruction by a majority vote of the Owners. If such approval is not obtained, the provisions of Section 21 of the act shall apply.
- (c) Restoration, for purposes of subparagraphs (a) and (b) above, shall mean construction or rebuilding of the Dwelling Units to the same condition as they existed immediately prior to the destruction and with a similar type of architecture.
- (d) In the event restoration of Dwelling Units is necessary, the insurance funds for such restoration shall be disbursed by the Mortgagee, if any (if it elects to do so), that holds mortgages on 51% of the Dwelling Units that need to be restored, otherwise by the Association. Such distribution and payment of funds shall be in the manner and in accordance with the procedure normally used when disbursing funds for initial construction. Each insurer shall be notified of this provision by the Owners and each policy of insurance shall comply herewith.

21. Sale of Dwelling by Declarants. For the purpose of maintaining the residential character fo the Regime, and for the protection of the Co-Owners, Declarants specifically reserve the mode and method of the original sale of each Unit until the last unit in the Regime is sold.

22. Membership in the Co-Owners Association. The tract is subject to the covenants and restrictions contained herein. For the purpose of this Declaration, upon the recording of this Declaration and any subsequent amendments thereto, all the rights and obligations accruing to a Dwelling Unit shall include, but not be limited to, the obligation to pay the monthly assessments as provided in such Declaration, which monthly assessments are a lien on each Dwelling Unit, and the necessity and right to become a member of the Co-Owners Association, and to have a vote for each Dwelling Unit owned, pursuant to the Formula heretofore set out.

The Declarants or Board of Managers reserve the right to construct recreational facilities within the Tract without being compelled to do so. In the event such facilities are to be constructed, those Co-Owners taking title to their respective Dwelling Unit prior to such decision to so construct recreational facilities shall have the option to participate in the common expense therefor. Those Co-Owners taking title to their respective Dwelling Unit after such decision may be required by the Declarants or said Board to share in the common expense therefor.

23. Covenants and Restrictions. The covenants and restrictions applicable to the use and enjoyment of the Dwelling Units are set forth in the Code of By-Laws of the Co-Owners Association. These covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by the Owner, Co-Owners or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions, but there shall be no right of reversion or forfeiture of title resulting from such violation.

24. Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- (a) Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered. The Amendments to Declaration dealing with the Additional Sections and reassignment of Percentage Interest in the respective Sections, however, are not subject to the conditions of this Section and may be adopted by the Board of Managers without notice.

The restrictions and prohibitions against amendments are further qualified by any right or grant given to the Declarants by virtue of the Agreement of Power of Attorney and Power of Attorney executed by the respective Owners in favor of the Declarants or their assigns, which Agreement and Power of Attorney are again incorporated herein by reference.

- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Managers or the Owners of at least a majority of the Percentage Vote.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than a majority of the Percentage Vote. In the event any Dwelling Unit is subject to a mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Managers in accordance with the provisions of the By-Laws.
- (e) Amendments. No amendment to this Declaration shall be adopted which changes:
 - (1) The Percentage Interest with respect to any Dwelling Unit or the applicable share of an Owner's liability for the common expense without the approval of sixty percent (60%) of the Co-Owners and Mortgagees, except as otherwise provided relating to annexation;

- (2) The provisions of paragraph 20 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Managers in accordance with the provisions of the By-Laws.
 - (3) The provisions of paragraph 16 of this Declaration except by Declarants in the manner provided therein; or,
 - (4) The provisions of paragraph 18 of this Declaration without the consent of the Declarants.
- (f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Hendricks County, Indiana, and such amendment shall not become effective until so recorded.

25. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants, and occupants of the Dwelling Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Managers as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Dwelling Unit shall constitute an agreement that the provisions of this Declaration, Supplemental Declarations, if any, the Act, the By-Laws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Dwelling Unit or Dwelling Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the rules and regulations applicable thereto as each may be amended from time to time.

26. Rights of Mortgage Purchaser. In the event Federal Home Loan Mortgage Corp., or other purchaser of a mortgage of any property in this Regime should request or require it, the Declarant or Board of Managers may fully satisfy such requirements and the right to act for and on behalf of such Co-Owners with regard to same is hereby conferred, among other things, in the Agreement for Power of Attorney and Power of Attorney executed herewith by each Co-Owner.

27. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their

guests, employees, agents, or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy, or abandonment of his Dwelling Unit or its appurtenances or of the Common Areas or Limited Areas.

28. Reservation of Rights. Declarants reserve the right to amend this Declaration without consent of the respective Owners until the last Dwelling Unit is sold, the project is turned over to the Co-Owners' Association, or December 31, 1985, whichever first occurs. In the event there is an annexation or annexations of an additional Section or Sections, the same rule will apply to amendments and supplements to this Declaration as pertains to each individual Section. Declarants also reserve the right to determine the mode and method of sale of the Dwelling Units until the last such unit in each respective Section is sold.

29. Costs and Attorneys' Fees. In a proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of the Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

30. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Areas or by abandonment of his Dwelling Unit. Nor does the Association waive the right to place a lien on the Dwelling Unit and foreclose same by failing to do so when payment is not timely made of the Common Expenses by the Owner when due.

31. Severability Clause. The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability, or affect the rest of this Declaration or the attached By-Laws.

32. Floor Plans. The Plans, as defined in paragraph 1(u) of this Declaration, are incorporated into this Declaration by reference, and have been filed in the Office of the Recorder of Hendricks County, Indiana, as Document No. 3900, as of DECEMBER 3, 1984, and amended Plans as may, from time to time, be so filed pursuant to this Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

Lowell E. Wing
LOWELL E. WING
Shirley J. Wing
SHIRLEY J. WING

ENTERED FOR RECORD

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Bonnie L. Morrison
RECORDER HENRICKS COUNTY

CODE OF BY-LAWS OF

WING'S CONDOS CO-OWNERS' ASSOCIATION, INC.

A NOT-FOR-PROFIT INDIANA CORPORATION

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration creating the Wing's Condos Horizontal Property Regime, Section I, to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference and all of the covenants, rights, restrictions, and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is specifically made to paragraph 1 of the Declaration containing definitions of terms. The provisions of these By-Laws shall apply to the property and the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Owners, Co-Owners, future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy the unit or any part of the Property, shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these By-Laws and the Act.

ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually and at such other times as may be necessary, the meetings of the Co-Owners shall be held for the purpose of electing the Board of Managers, approving the annual budget, providing for the collection and payment of common expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the Act.

Section 2.02. Annual Meetings. The annual meeting of the members of the Association shall be held on the FIRST of SEPTEMBER each calendar year. The first annual meeting shall not be held until the 10th of January, 1985, or such earlier date as determined by the Declarants. At the annual meeting, the Co-Owners shall elect the Board of Managers of the Association in accordance with the provision of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Managers or upon a written petition of the Co-Owners who have not less than a majority of the percentage vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at designated facilities, located in Hendricks County, Indiana, as may be designated by the Board of Managers. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Co-Owner and, if applicable, to any mortgagee not less than fourteen (14) days prior to the date of such meeting. The notice shall be mailed or delivered to the Co-Owners at their address as it appears upon the records of the Association and the mortgagee at the address as it appears on the records of the Association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast that number of votes on each matter coming before the meeting which is equal to the Percentage Vote to which the Owner is entitled multiplied by one hundred (100). Thus, an Owner with a Percentage Interest or Percentage Vote of .111 would be entitled to cast 11.10 votes.

(b) Multiple Owners. When the Owner of a Dwelling Unit constitutes more than one person, or is a partnership, there shall be only one voting representative entitled to the vote allocable to that Unit. At the time of acquisition of title to a Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representative for such Unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall constitute relinquishment of this right to act as voting representative for the Unit.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust and the agent or other representative of the Corporation duly empowered by the Board of Managers of such Corporation shall cast the vote to which the Corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Association prior to the commencement of the meeting.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws or the Indiana Horizontal Property Act, the Owners representing a majority of the total number of votes entitled to be present shall constitute a quorum at all meetings. The term majority of Owners or majority of votes, as used in these By-Laws, shall mean the Owners entitled to not less than fifty one percent (51%) of the total votes in accordance with the applicable provisions set forth in the Declaration.

(f) Conduct of Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time and business will be conducted in the following order:

- (1) Reading of Minutes. The Secretary shall read the minutes of the last meeting and the minutes of any special meeting held subsequent thereto.
- (2) Treasurer's Report. The Treasurer shall report to the Co-Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.
- (3) Budget. The proposed budget for the current calendar year shall be presented to the Co-Owners for approval and amendment.
- (4) Election of Board of Managers. Nominations for the Board of Managers may be made by an Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the annual meeting. Voting for Board of Managers will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to accumulate his votes. Those persons receiving the highest number of votes shall be elected.

- (5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.
- (6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Managers.
- (7) Adjournment.

ARTICLE III

Board of Managers

Section 3.01 The affairs of the Association shall be governed and managed by the Board of Managers (herein collectively called "Board" or "Managers" and individually called "Manager"). The initial Board of Managers shall be composed of three (3) persons. After the expiration of the term of the initial Board of Managers, the constituency of such Board may be increased to five (5) but the number of members on the Board shall not exceed five (5). No person shall be eligible to serve as a Manager unless he is an Owner or is an attorney, agent or employee of Declarants.

Section 3.02. Initial Board of Managers. The initial Board of Managers shall be Lowell E. Wing, Shirley J. Wing and L. Russell Wing. The initial Board shall hold office until December 31, 1985, or the date when the final unit of the build-out period is sold or the Project is turned over to the Co-Owners Association, whichever occurs first, and thereafter the Board shall be elected in accordance with Article IX of the Articles of Incorporation of the Co-Owners' Association.

Section 3.03. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or a trustee, shall be eligible to serve on the Board of Managers, except that no single Dwelling Unit may be represented on the Board of Managers by more than one person at a time.

Section 3.04. Term of Office and Vacancy. The Board of Managers shall be elected at each annual meeting of the Association subject to the limitations set forth in Section 3.02 above. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Managers or by vote of the Co-Owners if a Manager is removed in accordance with Section 3.05 of this Article III.

Section 3.05. Removal of Managers After the tenure of the initial Board of Managers, a Manager or Managers may be removed with or without cause by a vote of a majority at a special meeting of the Co-Owners duly called and constituted. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Manager so elected shall serve until the next annual meeting of the Co-Owners or until his successor is duly elected and qualified.

Section 3.06. Duties of the Board of Managers. The Board of Managers shall provide for the administration of the Horizontal Property Regime, the maintenance, upkeep and replacement of the Common Areas and Limited Areas, and the collection and disbursement of the Common Expenses. These duties include, but are not limited, to:

- (a) Protection, surveillance, and replacement of the Common Areas and Limited Areas;
- (b) Procuring of utilities, removal of garbage and waste, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas and Limited Areas, the exterior of the Buildings, garages and walls;
- (d) Surfacing, paving, and maintaining streets, parking areas, garages, and sidewalks, and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owner's pro-rata share of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (g) Preparing and delivering annually to the Co-Owners a full accounting of all receipts and expenses incurred in the prior years; such accounting shall be delivered to each Owner simultaneously with the delivery of the annual budget;
- (h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours.

Section 3.07. Powers of the Board of Managers. The Board of Managers shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- (a) To employ and terminate at will a managing agent or a real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;
- (b) To purchase for the benefit of the Co-Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Managers;
- (c) To procure for the benefit of the Owners, fire and extended coverage insurance covering the Buildings and the Property to the full insurable value thereof and to procure public liability and property damage insurance and Workmen's Compensation insurance, if necessary, for the benefit of the Owners and the Association;
- (d) To employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Managers may be necessary or desirable in connection with the business and affairs of the Co-Owners' Association, Inc.;
- (e) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (f) To open and maintain a bank account or accounts in the name of the Association; and,
- (g) To adopt, revise, amend, and alter from time to time, reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Property.

Section 3.08. Limitation on Board Action. After the tenure of the initial Board of Managers, the authority of the Board of Managers to enter into contracts shall be limited to contracts involving a total expenditure of less than Three Thousand Dollars (\$3,000) without obtaining the prior approval of a majority of Owners, except in the following cases:

- (a) Supervision of, and full authority regarding replacing or restoring portions of the Common Areas or Limited Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received; and,
- (b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Co-Owners at the annual meeting.

Section 3.09. Compensation. No Manager shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of the Owners.

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Section 3.10 Meetings. Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time by a majority of Managers. The Secretary shall give notice of regular meetings of the Board to each Manager personally or by United States mail at least five (5) days prior to the date of such meetings.

After the tenure of the initial Board of Managers, a special meeting of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice.

Section 3.11. Waiver of Notice. Before any meeting of the Board, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Manager at a meeting shall, as to such Manager, constitute a waiver of notice of the time, place, and purpose thereof. If all Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.12 Non-Liability of Managers. The Managers shall not be liable to the Co-Owners for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Managers, except for their own individual willful misconduct or bad faith. The Co-Owners shall indemnify and hold harmless each of the other Managers against any and all liability to any person, firm, or corporation arising out of contracts made by the Board on behalf of the Co-Owners' Association, unless any such contract shall have been made in bad faith or contrary to these provisions of the Declaration or By-Laws. It is intended that the Managers shall have no personal liability with respect to the contracts made by them on behalf of the Association and that in all matters, the Board is acting for and on behalf of the Co-Owners and as their agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Managers shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest represented by his membership certificate in the Association. Every contract made by the Board or the Managing Agent on behalf of the Association shall provide that the Board of Managers and the Managing Agent, as the case may be, is acting as agent for the Co-Owners and shall have no personal liability thereunder, except in their capacity as Owners and then only to the extent of their Percentage Interest.

Section 3.13 Additional Indemnity of Managers. The Co-Owners shall indemnify any person, his heirs, assigns, and legal represen-

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vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Co-Owners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. The Vice-President. The Vice-President shall be elected from among the Managers and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.05. The Secretary/Treasurer. The Secretary/Treasurer shall be elected from among the Managers. The Secretary/Treasurer shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the Secretary/Treasurer, and such other duties as from time to time may be prescribed by the Board. The Secretary/Treasurer shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws. The Secretary/Treasurer shall also maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Secretary/Treasurer. He shall be a legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or with a depository to be designated by the Board and shall keep such bank account in the name of the Association.

Section 4.06. Assistant Officers. The Board of Managers may from time to time, designate and elect from among the Co-Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Managers may prescribe.

ARTICLE V

Section 5.01. Annual Accounting. Annually, after the close of each calendar year and prior to the date of the annual meeting of the Association, the Board shall cause to be prepared and furnished to each Owner a financial statement, which statement shall show all receipts and expenses received, incurred, and paid during the preceding calendar year.

Section 5.02. Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Association, the Board of

Managers shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such proposed budget to each Owner prior to the annual meeting. The annual budget shall be submitted to the Co-Owners at the meeting of the Association for adoption and if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the Co-Owners, the budget may be approved in whole or in part, or may be amended in whole or in part by a majority of the vote; provided, however, that in no event shall the annual meeting of the Co-Owners be adjourned until an annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended.

Section 5.03. Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the ensuing year as set forth in said budget, contain a proposed assessment against each Dwelling Unit based on the Percentage Interest of each Unit as it relates to the total membership of the Association. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against each respective Unit (herein called the "Regular Assessment"). The Regular Assessment against each Unit shall be paid in twelve (12) equal monthly installments, commencing on the first day of each calendar month thereafter. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Managers or the Managing Agent, as directed by the Board of Managers; provided, however, Owner may elect to pay monthly assessments semi-annually in advance. The Regular Assessment for the year shall become a lien on each separate Unit as of the first day of the month after adoption.

Upon the completion of each Section of the Horizontal Property Regime, the Co-Owners thereof, together with Co-Owners of Sections theretofore turned over to the Co-Owners Association, together with the cost of all appurtenances to such Sections, will thereafter bear the costs of maintenance of such Sections, subject to all warranties as to habitability of the Dwelling Units, and Declarants will be responsible for such maintenance of those areas or sections not yet annexed.

During the year 19___, the Interim Monthly Assessment on the conveyance of title to any Dwelling Unit to an Owner is fixed at \$ _____. Each year thereafter, such Interim Assessment may not be cumulatively increased more than 12% each succeeding year. After the termination of the Interim Assessment, the Formula based on Percentage Interest, as fully set out in the Declaration, will determine the Regular Assessment.

Section 5.04. Special Assessments. Each of the Owners within the Property shall automatically and mandatorily be members in the Co-Owners' Association (the "Association") and entitled to all of the

privileges and subject to all of the obligations thereof. Declarants and all Dwelling Unit Owners by their acceptance of their deeds, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the Articles of Incorporation and regulations of the Co-Owners' Association and of the provisions hereof. Each Dwelling Unit Owner shall pay to the Association an annual assessment based on the Percentage Interest of each Unit as it relates to the Percentage Interest of the Unit Owner in the development, which assessment will be necessary to provide for maintenance and repair of the Common Areas and Limited Common Areas, together with necessary insurance, reserve fund for replacements, maintenance, and operation of the community activities facilities of the Association, and for any other necessary function for such maintenance and operation of the Regime.

In addition to the annual assessments authorized above, the Association may levy in any assessment year, special assessments for the purpose of defraying, in whole or in part, (1) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, and (2) the expense of any other contingencies; provided that any such assessments shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Each Owner of a Building Unit shall pay to the Association a special assessment based on the same Percentage Interest as the annual assessment as defined above, of the total sum approved to meet the costs and expenses as heretofore provided.

The amount of the annual assessment or of any special assessment provided for in this Section, shall be assessed as a lien at the beginning of each annual assessment period or at the time of special assessment, as the case may be. Each assessment shall be due and payable within thirty (30) days of the assessment, and, upon default of payment within such period of time, such assessment shall be a lien against the defaulting Owner and against that part of the Property, if any, owned by the defaulting Declarant, and the Association shall be entitled to enforce the payment of said lien according to the laws of the State of Indiana, and to take any other actions for collection from the defaulting parties. Any such lien against a Building Unit or against that part of the Property, if any, owned by the Declarants, shall be subordinate to any recorded first mortgage covering such Building Unit or, as the case may be, covering that part of the Property, if any, owned by Declarants.

Both annual and special assessments may be collected on a monthly basis.

Section 5.05. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repair within his own Building

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Unit which, if neglected, would adversely affect the value of the Property and is the responsibility of the Owner to make personally. Such maintenance and repairs include, but are not limited to, internal water lines, plumbing, electric lines, appliances, gas lines, air conditioning, doors, windows, light fixtures, and all other accessories belonging to the Owner and appurtenant to the Building Unit.

ARTICLE VI

Restrictions on Use

Section 6.01. The following restrictions on the use and enjoyment of the Building Units, Common Areas, Limited Areas, and the Property and, in addition, to those set forth in the Declaration. These are as follows:

- (a) All Building Units shall be used exclusively for residential purposes and occupancy for a single-family. Nothing herein contained shall restrict the use of premises during construction and sale period as "Models," office, construction trailer and equipment, and for storage of equipment, materials and supplies.
- (b) No additional buildings shall be erected other than the Buildings designated in the Declaration and shown on the Plans.
- (c) Nothing shall be done or kept in any Unit or in the Common Areas or Limited Areas which will cause an increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Unit or in the Common Areas or Limited Areas which will result in a cancellation of insurance on any Building or contents thereof, or which would be in violation of any law or ordinance.
- (d) No waste shall be committed in the Units, Common Areas or Limited Areas.
- (e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls of a Building, or on or upon any balcony or patio, and no sign, awning, canopy, shutter, or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roof or any other part of the Building without the prior written consent of the Board.
- (f) No animals, livestock, or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas or Limited Areas, except that small pet dogs, cats, or custo-

mary household pets may be kept, in a Building Unit, provided that such pet is not kept, bred, or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash and an Owner shall be fully liable for any damage to the Common Areas or Limited Areas caused by his pet. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Property upon two (2) written notices from the Board to the respective owner.

- (g) Nothing shall be done or permitted in any Building Unit which will impair the structural integrity of any Building or which would structurally change any Building, except as otherwise provided in the Declaration or these By-Laws; nor shall the premises be used in any unlawful manner or in any manner to cause injury to the reputation of the Building Unit or to be a nuisance, annoyance, inconvenience, or damage to other tenants of the Building or neighborhood, including, without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, TV, loud speakers, electrical equipment, amplifiers, or other equipment or machines.
- (h) No clothes, sheets, blankets, rugs, laundry, or other things shall be hung out or exposed on any part of the Common Areas. The Common Areas shall be kept free of and clear of rubbish, debris, and other unsightly material by the Owners.
- (i) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced, or permitted on the Property.
- (j) No "For Sale," "For Rent," or "For Lease" signs or other window advertising display shall be maintained or permitted on any part of the Property or any Unit without the prior consent of the Board; provided, however, that the right is reserved by the Declarants and the Board to place or allow to be placed "For Sale" or "For Lease" signs on any unsold or unoccupied Units.
- (k) All Owners and members of their families, their guests, or invitees, and all occupants of any Unit or other persons entitled to use the same and to use and enjoy the Common Areas and Limited Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be issued by the Board governing the operation, use, and enjoyment of the Common Areas and Limited Areas.

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FIRST AMENDMENT AND SUPPLEMENT TO
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP
FOR WING'S CONDOS HORIZONTAL PROPERTY REGIME

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This First Amendment and Supplement to Declaration of Horizontal Property
Ownership for Wing's Condos Horizontal Property Regime ("First Amendment and
Supplement"), made this 8th day of January, 1985, by Lowell E. Wing and Shirley
J. Wing, husband and wife (the "Declarants"),

ENTERED FOR RECORD

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JAN - 8 1985

WITNESSETH:

Bonnie R. Morpheus
RECORDER HENDRICKS COUNTY

WHEREAS, the following facts are true:

A. Declarants, on the 30th day of November, 1984, executed a
Declaration of Horizontal Property Ownership for Wing's Condos Horizontal
Property Regime, which was thereafter recorded in the Office of the
Recorder of Hendricks County, Indiana, on the 3rd day of December, 1984,
as Instrument No. 3901 (hereinafter referred to as the "Original Declaration")
establishing and creating Wing's Condos Horizontal Property Regime (herein-
after and in the Declaration referred to as "Wing's Condos" and as "The
Regime").

B. Declarants have not heretofore executed or recorded any Amendments
or Supplements to the Original Declaration amending or supplementing the
same.

C. Declarants are the sole owners of the fee simple title to that
certain parcel of real estate located in Hendricks County, Indiana, which
is more particularly described in Exhibit "A" attached hereto and hereby
made a part hereof by reference (hereinafter referred to as "Additional
Tract I").

D. Additional Tract I constitutes a portion of the Real Estate
(as defined in the Declaration) and constitutes the second phase of the
general plan of development of the Real Estate as described in the Declaration,
in which Declarants have reserved the right to expand Wing's Condos as
provided in paragraphs 16 and 24 of the Declaration and the Act (as defined
in the Declaration).

E. All conditions relating to the expansion of Wing's Condos to
include Additional Tract I and to the inclusion of Additional Tract I in
Wing's Condos have been met and satisfied and Declarants, by this First
Amendment and Supplement, desire to and hereby do expand Wing's Condos
to include Additional Tract I and to incorporate Additional Tract I in
Wing's Condos.

NOW, THEREFORE, Declarants, in accordance with the Act and its rights reserved in the Declaration, make this First Amendment and Supplement as follows:

1. Definitions. The definitions used in the Declaration shall be applicable to Additional Tract I and this First Amendment and Supplement; provided, however, Additional Tract I shall for all purposes now be included in the definition of "Tract" in the Declaration, and the definition of "Plans" in the Declaration where appropriate shall now include the Additional Tract I Plans defined in this First Amendment and Supplement.

"Additional Tract I Plans" as used herein means the floor and building plans of the Buildings and Condominium Units on Additional Tract I, prepared by R. E. Curry and Associates, Inc., certified by Richard L. Battershell, a registered architect under date of December 18, 1984, and a site plan of Additional Tract I and Buildings thereon prepared by Anthony D. Higbie, certified by Anthony D. Higbie, a registered land surveyor, under date of January 4, 1985, all of which are incorporated herein by reference.

2. Declaration. Declarants hereby expressly declare that Additional Tract I and all appurtenant easements, Condominium Units, Buildings, garages, improvements and property of every kind and nature whatsoever, real, personal and mixed, located thereon shall be annexed to and become part of Wing's Condos, and Wing's Condos are hereby expanded to include Additional Tract I, all as if the same had originally been included in the Declaration, and the same shall hereafter be held, transferred, sold, conveyed, used and occupied subject to all of the covenants, conditions, restrictions, terms and provisions of the Declaration, this First Amendment and Supplement, the Act, and the By-Laws, and the rules and regulations as adopted by the Board of Managers, as each may be amended from time to time, the Declaration being incorporated herein and made a part hereof by reference.

3. Description of Buildings. There are two (2) Buildings containing six (6) Condominium Units on Additional Tract I as shown on the Additional Tract I Plans. The Buildings are identified and referred to in the Additional Tract I Plans and in this First Amendment and Supplement as Buildings or Structures II (2) and III (3). A description of the Buildings located on Additional Tract I and the Condominium Units contained therein is set forth in Exhibit "B" attached hereto and hereby made a part hereof by this reference. As of the date of this First Amendment and Supplement, Wing's Condos now consist of three (3) Buildings containing nine (9) Condominium Units.

4. Percentage Interest and Legal Description. Pursuant to the Declaration and the Act, Declarants hereby reallocate the Percentage Interests included in the Condominium Units in accordance with the following provisions. The Percentage Interest in the Common Areas and Limited Areas on the Tract (as now defined) of each Owner of a Condominium Unit, including both the Condominium Units heretofore included in Wing's Condos and the Condominium Units added to Wing's Condos by this First Amendment and Supplement, shall be that Percentage Interest included in each Condominium Unit as is set forth in Exhibit "C" attached hereto and hereby made a part hereof by this reference. Each Condominium Unit on Additional Tract I is identified on the Additional Tract I Plans by a three (3) digit arabic number, which number corresponds to the street address of such Condominium Unit. The legal description for each such Condominium Unit shall consist of the identifying number for such Condominium Unit as shown on the Additional Tract I Plans, and shall be stated as "Condominium Unit (with identifying number) in Wing's Condos Horizontal Property Regime".

5. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement by the Owner thereof and all those claiming by, through or under him that the provisions of this First Amendment and Supplement, the Declaration, the Act, the By-Laws

and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner or occupant and those claiming by, through or under him, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Condominium Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, lease thereof or other instrument or document relating thereto.

6. Floor Plans. The Additional Tract I Plans setting forth the layout, location, identification numbers and dimensions of the Condominium Units and Property identified in this First Amendment and Supplement are incorporated into the Declaration, added to the Plans filed with the Declaration, and have been filed in the office of the Recorder of Hendricks County, Indiana, as of January 8th, 1985, as Instrument Number 4772.

IN WITNESS WHEREOF, the undersigned have caused this First Amendment and Supplement to Declaration of Horizontal Property Ownership for Wing's Condos Horizontal Property Regime to be executed the day and year first above-written.

Lowell E. Wing
LOWELL E. WING

Shirley J. Wing
SHIRLEY J. WING

STATE OF INDIANA)
). SS:
COUNTY OF HENDRICKS)

Before me, a Notary Public in and for said County and State, personally appeared Lowell E. Wing and Shirley J. Wing, husband and wife, who acknowledged the execution of the above and foregoing instrument.

WITNESS my hand and Notarial Seal this _____ day of January, 1985.

Commission Expires: January 4, 1987
County of Residence: Hendricks

Seth B. Lewis
SETH B. LEWIS, Notary Public

This instrument was prepared by Seth B. Lewis, Attorney at Law, Danville Professional Office Building, 95 North Tennessee Street, Danville, Indiana, 46122.

CONSENT OF MORTGAGEE

The undersigned, THE STATE BANK OF LIZTON, a state banking association, and being the holder of existing mortgages and other security on Additional Tract I, as defined in the above and foregoing First Amendment and Supplement, as follows:

- (1) Mortgage dated April 30, 1984, recorded May 9, 1984, in Mortgage Record 326 at Page 611 in the Office of the Recorder of Hendricks County, Indiana; and
- (2) Mortgage dated August 25, 1984, recorded August 28, 1984, in Mortgage Record 331 at Page 365 in the Office of the Recorder of Hendricks County, Indiana;

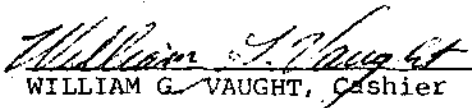
hereby consents to the recording of the above and foregoing First Amendment and Supplement and the submission of Additional Tract I to the provisions of the Horizontal Property Law of the State of Indiana and the Declaration; the undersigned further agrees that its mortgages and other security with respect to Additional Tract I shall be subject to the provisions of the Act, the Declaration and the above and foregoing First Amendment and Supplement and Exhibits attached thereto and the documents incorporated therein; provided, however, except and to the extent that the mortgages and other security are modified by this Consent, such mortgages and other security shall remain in full force and effect, unaltered, and enforceable in accordance with their terms.

EXECUTED THIS 8th DAY OF JANUARY, 1985.

THE STATE BANK OF LIZTON

BY: 
H. MATTHEW AYERS, President

ATTEST:


WILLIAM G. VAUGHT, Cashier

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

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Before me, a Notary Public in and for said County and State, personally appeared H. Matthew Ayers and William G. Vaught, by me known, and by me known to be the President and Cashier, respectively, of THE STATE BANK OF LIZTON, a state banking association, organized and existing under and by virtue of the laws of the State of Indiana, who acknowledged the execution of the above and foregoing Consent for and on behalf of said association.

WITNESS my hand and Notarial Seal this 8th day of January, 1985.

My Commission Expires: 12/16/88

M. Diane Eller
Notary Public

County of Residence: Hendricks

M. Diane Eller
Printed Name

This instrument was prepared by Seth B. Lewis, Attorney at Law, Danville Professional Office Building, 95 North Tennessee Street, Danville, Indiana, 46122.

LEGAL DESCRIPTION OF
ADDITIONAL TRACT I

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A part of the West half of the Southeast quarter of Section 11, Township 16 North, Range 1 East of the Second Principal Meridian in Hendricks County, Indiana, being more particularly described as follows, to-wit:

Commencing at an iron pin found marking the northeast corner of Lot numbered four (4) in Salmon's Addition to the Town of Brownsburg, Indiana as per plat thereof recorded in Plat Book 3, page 76 in the office of the Recorder of Hendricks County, Indiana; thence South 68 degrees 30 minutes 00 seconds East along the southern right-of-way line of U. S. 136 (Crawfordsville Road) as now located and established and thru Eastern Street 42.43 feet to the POINT OF BEGINNING, said Point of Beginning being the intersection said southern right-of-way and the east right-of-way line of Eastern Street, as now located and established; thence South 02 degrees 01 minute 00 seconds West along said east right-of-way line 231.98 feet; thence South 89 degrees 25 minutes 16 seconds East 129.22 feet; thence North 00 degrees 34 minutes 44 seconds East 184.47 feet to the aforesaid southern right-of-way line of U. S. 136; thence North 68 degrees 30 minutes 00 seconds West along said southern right-of-way line 132.86 feet to the Point of Beginning. Containing 0.61 acres, more or less and subject to all legal highways, rights-of-way and easements of record.

Exhibit "A"

DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS
ADDITIONAL TRACT I
WING'S CONDOS HORIZONTAL PROPERTY REGIME

The following description of the buildings located on the Additional Tract I and the condominium units contained therein is set forth as follows:

BUILDING II

Unit A
Address: 3 Eastern Avenue
Brownsburg, Indiana 46112

Unit B
Address: 5 Eastern Avenue
Brownsburg, Indiana 46112

Unit C
Address: 7 Eastern Avenue
Brownsburg, Indiana 46112

BUILDING III

Unit A
Address: 505 East Main Street
Brownsburg, Indiana 46112

Unit B
Address: 507 East Main Street
Brownsburg, Indiana 46112

Unit C
Address: 509 East Main Street
Brownsburg, Indiana 46112

Exhibit "B"

PERCENTAGE INTEREST OF CONDOMINIUM UNITS
WING'S CONDOS HORIZONTAL PROPERTY REGIME

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BUILDING I		<u>FRACTIONAL INTEREST</u>	<u>PERCENTAGE INTEREST</u>
Unit A		1/9th	11 1/9%
Address:	13 Eastern Avenue Brownsburg, Indiana 46112		
Unit B		1/9th	11 1/9%
Address:	11 Eastern Avenue Brownsburg, Indiana 46112		
Unit C		1/9th	11 1/9%
Address:	9 Eastern Avenue Brownsburg, Indiana 46112		
BUILDING II			
Unit A		1/9th	11 1/9%
Address:	3 Eastern Avenue Brownsburg, Indiana 46112		
Unit B		1/9th	11 1/9%
Address:	5 Eastern Avenue Brownsburg, Indiana 46112		
Unit C		1/9th	11 1/9%
Address:	7 Eastern Avenue Brownsburg, Indiana 46112		
BUILDING III			
Unit A		1/9th	11 1/9%
Address:	505 East Main Street Brownsburg, Indiana 46112		
Unit B		1/9th	11 1/9%
Address:	507 East Main Street Brownsburg, Indiana 46112		
Unit C		1/9th	11 1/9%
Address:	509 East Main Street Brownsburg, Indiana 46112		

Exhibit "C"