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# DECLARATION OF HORIZONTAL PROPERTY REGIME

# AND THE

# EASEMENTS RESTRICTIONS, COVENANTS

# AND BY-LAWS

# FOR THE

# CLIFFORD AND CHATHAM PLACE

# CONDOMINIUM ASSOCIATION

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THIS DECLARATION (hereinafter "Declaration") is made this 23rd day of March, 1993, by R.G.K. REAL ESTATE DEVELOPMENT COMPANY, an Indiana general partnership (hereinafter referred to as the "Declarant"):

WITNESSETH:

WHEREAS, the Declarant is the sole owner of the fee simple title to certain real estate and improvements thereon, located in Marion County, Indiana (hereinafter referred to as the "Parcel") as more particularly described in Exhibit "A" attached hereto and by reference made a part hereof; and,

WHEREAS, the Declarant desires and intends by this Declaration to submit the property which includes the Parcel together with all improvements and structures constructed or contained therein or thereon, including all buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment, if any, (hereinafter referred to as the "Property") intended for the mutual use, benefit or enjoyment of the Unit Owners, to the provisions of the Horizontal Property Law of the State of Indiana, as amended from time to time, (hereinafter call the "Act"); and is further desirous of establishing, for its own benefit and that of all future owners or occupants of the Property, and each part thereof certain easements and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the use and maintenance thereof; and,

WHEREAS, the Declarant desires and intends that the several owners, mortgagees, occupants, and other persons acquiring an interest in the Property shall at all times enjoy the benefits of, and shall at all times hold their interests subject to, the rights, easements, privileges, and restrictions hereinafter set forth which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of ownership and to facilitate the proper administration of the Property.

NOW, THEREFORE, the Declarant, as the legal title holder of the Parcel and for the purposes above set forth, DECLARES AS FOLLOWS:

## Article I

## Definitions

For the purposes of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01. Act. The Indiana Horizontal Property Law as from time to time amended.

1.02. Articles. The Articles of Incorporation of the



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Association.

1.03. Assessment. That portion of the cost of the operation of the Property which is to be paid by each Unit Owner as determined by the Board of Directors, including, but not limited to, the Common Expenses.

1.04. Association. The Clifford and Chatham Place Condominium Association, Inc., an Indiana not-for-profit corporation.

1.05. Board. The Board of Directors of the Association, the members of which shall be selected by the Unit Owners in accordance with and for the purposes set forth in the Articles and By-Laws.

1.06. Building. A structure containing Units or other facilities located on the Parcel and representing a part of the Property as shown on the plans.

1.07. By-Laws. The By-Laws of the Association, a copy of which (as of the date hereof) are marked as Exhibit "B", attached hereto and made a part hereof.

1.08. Common Areas and Facilities. All portions of the Property except the Units, including the Limited Common Areas unless specifically excepted.

1.09. Common Expenses. The following: (a) all sums lawfully assessed against the Unit Owners by the Association for operation of the Property, including, but not limited to, all insurance premiums for fire, extended coverage, and general liability; (b) costs incurred in replacement of Common Areas and Facilities or portions thereof; (c) such expenses as are determined by the affirmative vote of Unit Owners with the requisite aggregate percentage interest at an annual or special meeting of the Unit Owners held in accordance with the By-Laws; and (d) all expenses declared Common Expenses by the Act, Declaration or By-Laws.

1.10. Declaration. This instrument by which the Parcel and Property is submitted to the provision of the Act including such amendments, if any, hereto as may from time to time be adopted pursuant to the terms hereof.

1.11. Declarant. R.G.K. Real Estate Development Company, an Indiana general partnership and its successors and assigns specifically designated as developer of the Parcel and Property for submission to the provision of the Act.

1.12. Plans. The site plan of the Parcel and of all Buildings and other improvements constructed therein or thereon and all easements, rights and appurtenances belonging thereto, all of the foregoing as submitted to the provision of the Act and as more particularly identified on Exhibit "C" attached hereto and made a



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part hereof.

1.13. Floor Plans. The plans of the Buildings containing Units showing the layout, location, unit numbers, elevation and approximate dimensions of the Units and stating the name or designation of each of the Buildings, as more particularly identified on Exhibit "D" attached hereto and made a part hereof.

1.14. Limited Common Areas. A portion of the Common Area so designated in this Declaration which is intended for the common use and enjoyment of one or more of the Unit Owners but less than all the Unit Owners.

1.15. Occupant. Person or persons other than a Unit Owner, in possession of a Unit.

1.16. Parcel. The entire tract of real estate above-described, which is hereby submitted to the provisions of this Act.

1.17. Property. All the land, real estate and space comprising the Parcel together with all improvements and structures constructed or contained therein or thereon, including all buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment, if any, intended for the mutual use, benefit or enjoyment of the Unit Owners submitted to the provisions of the Act.

1.18. Unit. That part of the Property within any one of the Buildings including one or more rooms, occupying all or a part of a floor or floors, and designed and intended for independent use as a residential dwelling or a commercial facility, and as more specifically described hereafter in Article II.

1.19. Unit Owner. The person, persons, corporation, partnership, trustee or other legal entity whose estates or interests, individually or collectively aggregates a fee simple absolute ownership of a Unit, including contract buyers.

1.20. Unit Ownership. Ownership of part of the property consisting of one Unit and the undivided interest in the Common Areas and Facilities appurtenant thereto.

## ARTICLE II

## Property and Units; Subdivision to Act

2.01. Unit; Description and Ownership. The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Floor Plans. Every deed, lease, mortgage or other instrument shall describe a Unit by its identifying number or symbol as shown on the Floor Plans, and every such description shall be deemed good and sufficient for all purposes. The



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acceptance of a deed, lease or mortgage as to any Unit by any person or persons or other legal entity shall constitute the acceptance and ratification by same of this Declaration, the Act, the By-Laws and all existing or future rules and regulations of the Board. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes set forth in the delineation thereof as shown on the Floor Plans. No Unit Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause a Unit owned to be separated into any tracts or parcels different from the whole Unit as shown on the Floor Plans. The boundaries of each Unit shall be shown on the Floor Plans (without regard to the existing construction) as measured between the interior unfinished surface of the perimeter walls, unfinished surface of the floors, and the unfinished surface of the ceiling at its highest point, in each Unit. In the event any horizontal or vertical boundary line as shown on the Floor Plans does not coincide with the actual location of the respective wall, floor or ceiling surface of the Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each 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 Unit Owner of each Unit in and to such space lying outside of the actual boundary line of the Unit, but within the appropriate interior wall, floor or ceiling surfaces of the Unit.

2.02. Certain Structures Not Constituting Part of a Unit. Notwithstanding anything in Paragraph 2.01 which might be construed to the contrary, no Unit Owner shall own any pipes, wires, conduits, utility lines, ducts, flues, chutes or other structural components running through the Unit owned, except fixtures or outlets when located within the Unit owned, and serving more than such Unit, whether or not such items shall be located in the floors, ceilings or perimeter or interior walls of the Unit, except as a tenant-in-common with all other Unit Owners.

2.03. Encroachments and Easements for Common Areas and Facilities. If, by reason, or shifting of a Building, the Common Areas and Facilities encroach upon any Unit, then in such event, an easement shall be deemed to exist and run to the Association for the maintenance, use and enjoyment of such common Areas and Facilities.

Each Unit Owner shall have an easement in common with each other Unit Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in, on, or under any of the other Units and serving the Unit owned.



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## ARTICLE III

## Common Areas

3.01. Description of Common Areas and Facilities. Except as otherwise provided herein, the Common Areas and Facilities shall consist of all portions of the Property, including the Limited Common Areas as more particularly described in Paragraph 3.04, except the Units, including but not necessarily limited to, the land, fences, outside walks and driveways, landscaping, garages, parking areas, roofs, skylights, pipes, ducts, electrical wiring and conduits, all cable television equipment (excluding receivers and transmitters), public or central utility lines, and other utility installation to the outlets, floors, ceilings, common hallway walls and perimeter walls of a Building not located within the boundaries of a Unit as shown on the Floor Plans, and structural parts of a Building, including bearing walls and structural columns, located within the boundaries of a Unit.

3.02. Ownership of Common Areas and Facilities. Each Unit Owner shall be entitled to an undivided 7.143% interest in the Common Areas and Facilities as a tenant-in-common with all other Unit Owners. When a Unit Owner owns more than one Unit, ownership in the Common areas and Facilities shall be the aggregate of the percentage of ownership interest of all Units owned. The ownership of each Unit shall not be conveyed separate from the percentage of ownership in the Common Areas and Facilities corresponding to such Unit. The undivided percentage of ownership in the Common Areas and Facilities corresponding to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering said Unit may refer only to the fee title to that Unit.

3.03. Use of Common Areas and Facilities. Each Unit Owner shall have the right to use the Common Areas and Facilities (subject to the limitations of Section 3.05 respecting the use of Limited Common Areas) in common with all other Unit Owners as may be required for the purpose of ingress and egress to and use, occupancy and enjoyment of, the respective Unit owned by each Unit Owner. Such rights shall extend to the Unit Owner and the members of the Unit Owners immediate family and guests and other occupants and visitors. The use of the Common Areas and Facilities and the rights of the Unit Owners with respect thereto shall be subject to and governed by the provision of this Declaration, the By-Laws, rules and regulation from time to time enacted by the Board and the Act.

3.04. Description of Limited Common Areas. Except as otherwise provided by this Declaration, Limited Common Areas are those parts of the Common Areas and Facilities which are designed for use exclusively or substantially exclusively for the benefit of a single Unit and include:



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(a) The open parking spaces assigned to certain residential dwelling Units;

(b) The garages purchased by certain residential dwelling Units;

(c) Perimeter doors and windows which serve exclusively a single Unit;

(d) With respect to any Unit occupying more than one (1) story, the floor and ceiling which separate the stories of that Unit;

(e) The elevator serving the residential dwelling Units.

(f) The storage bins located in the basement of the Clifford Building assigned to each residential dwelling Unit.

3.05. Use of Limited Common Areas. The Limited Common Areas specifically described in paragraphs (a) through (f) of Section 3.04 shall be for the exclusive use and benefit of the Unit served thereby or assigned thereto and the Unit Owner thereof, subject to rules and regulations from time to time enacted by the Board, the By-Laws, the provisions of this Declaration, and the Act.

3.06. No Partition of Common Areas and Facilities. There shall be no partition of the Common Areas and Facilities through judicial proceedings or otherwise until this Declaration is terminated and the Property is withdrawn from its terms or from the Act.

ARTICLE IV

Provisions as to Units and Common Areas

4.01. Submission of Property to the Act. The Property is hereby submitted to the provisions of the Horizontal Property Law of the State of Indiana.

4.02. No Severance of Ownership. No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting Unit Ownership without including therein both his or her interest in the Unit and his or her corresponding percentage of ownership in the Common Areas and Facilities, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mention or described therein.

4.03. Easements.

(a) Easements for Utilities and Additional Purposes. All suppliers of utilities serving the Property are hereby granted



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the right to install, maintain, repair or replace conduits, cables, pipes, wires and other equipment into, on or above any portion of the Common Areas and Facilities for the purpose of providing the Property with utility services, together with the reasonable right of ingress and egress to the Property for such purposes provided, however, that the location of any such easements shall be subject to the approval of the Board, the Board may grant other or additional easements for utility purposes and for other purposes for the benefit of the Property over, under, along and through any portion of the Common Areas and Facilities, including such easements as the Declarant may from time to time request including, but not limited to, easements as may be required to construct, keep and maintain improvements upon the Common Areas and Facilities. Each Unit Owner hereby grants the Board an irrevocable power of attorney to execute, acknowledge and record such instruments as may be necessary to effectuate the foregoing.

(b) Easements To Run With The Land. All easements and rights described herein are easements appurtenant, running with the land, for so long as the Property is subject to the provisions of this Declaration and shall remain in full force and effect, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Unit Owner, purchaser, mortgagee or other person having an interest in the Property, or any part or portion thereof.

4.04. Use of the Common Areas and Facilities.

(a) General. Each Unit Owner shall have the rights to use of the Common Areas and Facilities as provided in Section 3.03 and 3.05 of the Declaration.

(b) Restrictions on Use of Common Areas and Facilities. The use of the Common Areas and Facilities and the rights of the Unit Owners with respect thereto shall be subject to and governed as set forth in Section 3.03.

4.05. Maintenance Repairs and Replacements.

(a) By the Board. Except as otherwise provided by this Declaration, the Association through the Board shall be responsible for the maintenance, repair, replacement, improvement and management of the Common Areas and Facilities. Such responsibilities of the Board shall specifically include, but not be limited to, maintenance, repairs or replacements of: (i) those portions, if any, of each Unit which contribute to the support of a Building excluding, however, interior wall, ceiling and floor surfaces within a Unit; (ii) pipes, wires, conduits, ducts, flues, shafts and other facilities for the furnishing of utility services which may be located within or without the forming part of any system servicing more than one Unit; and (iii) roof, gutters, downspouts, flashing, chimney and other weather proofing. The



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Board's responsibilities, however, respecting maintenance, repairs or replacements (other than periodic, expected or routine in nature) of those items specified in items (i), (ii) and (iii) of this Section 4.05 shall be subject to receipt of written notice by the Board, Secretary of the Association, or anyone designated to receive any such written notice by the Board from a Unit Owner with reasonable promptness of conditions existing which necessitate either an inspection to determine the need for, or the performance of, maintenance, repairs or replacements, and the elapse of a reasonable time under the circumstances involved to permit the Board to discharge its responsibilities hereunder.

(b) By the Unit Owner. Except as otherwise provided in paragraph (a) above, each Unit Owner shall furnish, be responsible and pay for:

(1) All of the maintenance, repairs and replacements within the Unit owned and of the doors, windows and frames and screens appurtenant thereto, and all internal installations of such Unit such as refrigerators, ranges, and other kitchen appliances, lighting fixtures and other electrical fixtures, plumbing fixtures or installation, and any pipes, ducts, flues, shafts, electrical wiring and conduits, and individual heating, cooling, and ventilating systems or equipment situated within or without a Unit and servicing only such Unit. Notwithstanding the above, the Board or the Association may provide, by its rules and regulations, for biannual (or more frequent) washing or cleaning of the windows and frames and screens appurtenant thereto of each of the Units, to be furnished as a Common Expense.

(3) Each Unit Owner shall be responsible for the repair, maintenance and replacement of all door and window locks and hardware with respect to which each Unit Owner is entitled to the exclusive use.

(4) Each Unit Owner entitled to exclusive use and benefit (as determined by Section 3.05) of a patio and/or balcony shall keep such patio or balcony in a neat and orderly condition at all times free of rubbish and debris. Each Unit Owner shall also paint, repair, fix, replace and maintain any fence, railing, gate or similar barrier enclosing, either wholly or partially, any such patio or balcony, in the manner and at the time or times directed in writing by the Board in order to ensure uniformity among all such patios and balconies appurtenant to buildings within the Property.

(5) The Board may perform or cause to be performed, any of the maintenance, repair or upkeep as indicated in (1), (2), (3) and (4) above and assess the cost of the



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same to the Unit Owner benefiting thereby, in the event of a failure by a Unit Owner to comply with all or any of the responsibilities imposed herein within twenty (20) days after notice in writing from the Board of the Board's intention to perform or cause to be performed any such maintenance, repair or upkeep unless provided for by the Unit Owner.

(6) Any and all signage and window treatment (draperies, blinds, etc.) for the commercial facility Units shall require the majority approval of the Owners of these commercial facilities.

(c) Nature of Obligations. Nothing herein contained shall be construed to impose a contractual liability upon the Association for maintenance, repair and replacement, but the Association's liability shall be limited to damages resulting from negligence. The respective obligations of the Association and Unit Owners set forth in this Declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Buildings, nor because they may become entitled to proceeds under policies of insurance. In addition, and notwithstanding anything hereinabove to the contrary, no Unit Owner shall have a claim against the Board or Association for any work, maintenance, repairs or replacements ordinarily the responsibility of the Board or Association under (a) above either: (i) where notice is given as required or the Board is found to have actual knowledge in lieu thereof; or (ii) which the Unit Owner has performed or paid for, unless the same shall have been agreed to in advance and in writing by the Board or the Declarant.

4.06. Additions, Alterations or Improvements:

(a) The Board may authorize and charge as a Common Expense (or in the case of Limited Common Areas may charge the Owners benefitted thereby) additions, alterations, improvements, maintenance, repairs and replacements to the Common Areas and Facilities. The cost of any of the foregoing as authorized by the Board may be levied against the Unit Owners by special assessment. NOTWITHSTANDING the foregoing, the maintenance, insurance, and real estate taxes for the parking garages and the parking areas, shall be treated as a common expense shared among all residential Unit Owners.

(b) No additions, alterations or improvements shall be made by a Unit Owner to any part of the Common Areas and Facilities and no additions, alterations or improvements shall be made by a Unit Owner to his or her Unit (where such work affects the safety or structural integrity of the Building, reduces the value thereof or impairs any easement granted hereunder) without the prior



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written consent of the Board and all Unit Owners within the Building of which such Unit constitutes a part. In the event such consent is obtained, such consent may be conditioned upon the Unit Owner's agreement either:

(1) To be solely responsible for the maintenance of such addition, alteration or improvement. If an addition, alteration or improvement is made by a Unit Owner without the prior written consent of the Board and other Unit Owners as herein required, then the Board may, in its discretion, take any of the following actions:

(i) Require the Unit Owner to remove the addition, alteration or improvement and restore the Property to its original condition, all at the Owners's expense; or

(ii) If the Unit Owner refuses or fails to properly perform the work required under (i), the Board may cause such work to be done and may charge the owner for the cost thereof as determined by the Board; or

(iii) Ratify the action taken by the Unit Owner, provided such action has been first ratified by the Unit Owners from whom consent should have been obtained as herein provided, and the Board may (but shall not be required to) condition such ratification upon the same conditions which it may impose upon the giving of its prior consent under this section.

4.07. Joint Facilities. To the extent that equipment, facilities or fixtures are affecting or serving other Units or the Common Areas and Facilities, then the use thereof by any individual Unit Owner shall be subject to rules and regulations of the Board as may be imposed from time to time. The authorized representatives of the Association or the Board, or of the manager or managing agent for the Buildings, shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repairs or replacements of or to the Common Areas and Facilities or any equipment, facilities or fixtures affecting or serving other Units or the Common Areas and Facilities.

4.08. Separate Use Facilities. The Board of the Association shall from time to time determine, and upon such determination shall notify each Unit Owner of same, which Common Facilities, if any, should be maintained at the sole expense of certain individual or a certain group of Unit Owners. For example, the Board may determine that all expenses in connection with an elevator which serves only certain Units should be paid only by the collective



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Unit Owners of the Units served. Such determination by the Board of the Association from time to time shall be final and unappealable.

## ARTICLE V

## Administration

5.01. Administration of the Property. The direction and administration of the Property shall be vested in the Board of the Association, in accordance with the terms and provisions of this Declaration and the By-Laws. Provided however, that irrespective of anything else contained in this Declaration, for a period of time commencing on the date this Declaration is executed and ending upon the earlier of (a) April 1, 1994, or (b) the transfer of ownership of seven (7) Units to someone other than the Declarant, the Declarant shall have the right to designate and select the persons who shall serve as members of each Board or to exercise the powers of the Board as provided in the Act.

5.02. Association. The Association shall be the governing body for all of the Unit Owners with respect to the maintenance, repair, replacement, administration and operation of the Property. The Association shall not be deemed to be conducting a business of any kind. Membership in the Association shall automatically terminate when a person ceases to be a Unit Owner, and upon the transfer of ownership in a Unit to a new Unit Owner, the new Unit Owner shall then succeed to membership in the Association. The Association may issue certificates evidencing membership therein and shall have only one class of membership.

5.03. Voting Rights. There shall be one person with respect to each Unit who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known (and hereinafter referred to) as a Voting Member. Such Voting Member may be the Unit Owner or one of a group who compose the Unit Owners of a Unit Ownership, or be some person designated by a Unit Owner to act as proxy on his, her or their behalf. In the event that joint Owners of a Unit are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any person having an ownership interest in any Unit casts a vote representing a certain Unit without such an agreement, it will thereafter be disregarded as if no vote was cast. All other matters respecting voting rights and proxies shall be as specified in the By-Laws.

5.04. Meetings. Meetings of the Association and the Board shall be held at the times, in the manner and subject to the notice required as specified in the By-Laws.

5.05. Powers and Duties of the Board. The Board shall have the powers and duties specified in the Articles, By-Laws, Act and



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this Declaration...

5.06. Liability for Acts or Omissions of the Board or Officers. Neither the members of the Board nor the officers of the Association shall be liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Board members and officers except for willful misconduct or recklessness. The Association shall INDEMNIFY AND HOLD HARMLESS each of the members of the Board and each of the officers of the Association against any loss, cost or expense resulting from any claim, demand, action, or cause of action, formal or informal, made, filed or asserted arising out of or in connection with any acts taken or things done, contractual or otherwise, by or at the direction of the Board or officers of the Association on behalf of the Unit Owners or Association, or in which they are involved because of their status as Board members or officers, unless involving willful misconduct or recklessness. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, attorney fees and the financial costs of any settlements) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any member of the Board or any officer of the Association may be involved by virtue of being or having been such member or officer; provided, however, that such indemnity shall not be operative with respect to the following: (i) any matter as to which any such person shall have been finally adjudged in such action, suit or proceeding to be liable for willful misconduct or recklessness in the performance of his or her duties as a Board member or officer; or (ii) any matter compromised and settled unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is no reasonable basis for any such Board member or officer being adjudged liable for willful misconduct or recklessness in the performance of his or her duties as a Board member or officer. The liability of any Unit Owner arising out of any acts taken or things done, contractual or otherwise, by members of the Board or officers of the Association, or out of the aforesaid indemnity in favor of members of the Board and officers of the Association, shall be limited to such proportion of the total liability thereunder as his or her percentage of interest in the Common Areas bears to the total percentage interest of all Unit Owners in the Common Areas. Every agreement made by the Board, any officer of the Association, or by any managing agent on behalf of the Unit Owners or Association shall provide that members of the Board or the managing agent, as the case may, are acting only as agents for the Unit Owners or Association and shall have no personal liability thereunder (except as Unit Owners) and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his or her percentage of interest in the Common Areas bears to the total percentage interest of all Unit Owners in the Common Areas.



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## ARTICLE VI

### Common Expenses - Maintenance Fund

6.01. Preparation of Estimated Budget. Each year on or before November 1, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall on or before November 15 notify each Unit Owner in writing as to the amount of such estimate, with reasonable itemization thereto and containing each Unit Owner's respective Assessment provided, however, that such annual budget shall be furnished to each Unit Owner at least thirty (30) days prior to its adoption by the Board. The annual budget shall also take into account the net available cash income for the year derived from the operation or use of the Common Areas and Facilities. Subject to the provisions of Section 4.05 (b) (5) and 4.06 (iii) hereof, and subject further to the provisions of Section 4.08 hereof, said "estimated cash requirement" shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the Common Areas and Facilities. Attached hereto as Exhibit "E" is a schedule (which is not all inclusive) to guide the Board in determining what expenses of the Development are to be assessed against all Unit Owners and what expenses for maintenance, repairs, etc., are to be assessed against only the Residential Unit Owners. NOTWITHSTANDING anything to the contrary in Exhibit "E", all assessments for real estate taxes and all premiums for insurance coverage shall be assessed equally against all Unit Owners.

On or before January 1 of the ensuing year and the first of each and every month of said year, each Unit Owner, jointly and severally, shall be personally liable for and obligated to pay the Association or as it may direct, one-twelfth (1/12) of the Assessment made pursuant to this paragraph. On or before April 1 each calendar year following the initial meeting, the Board shall supply to all Unit Owners an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Such accounting shall be prepared by a certified public accountant. Any net shortage or excess shall be applied as an adjustment to the installment due under the current year's estimate in the succeeding six (6) months after rendering of the accounting subject, however, to the provisions of Section 6.02 hereof.

6.02. Reserve for Contingencies and Replacements - Supplemental Budget. The Board shall build up and maintain a



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reasonable reserve for contingencies and replacements, which reserve shall be segregated and allocated for specific purposes and maintained in a separate interest-bearing account with a bank or savings and loan association having its principal place of business in Marion County, Indiana. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such portions of the contingency and replacement reserve which remains unallocated. If the "estimated cash requirement" proves inadequate for any reason or in the event a non-recurring Common Expense is anticipated for any year, then the Board may prepare and approve a supplemental budget covering the estimated deficiency or non-recurring expense for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a separate Assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget. All Unit Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

6.03. Initial Budget. The Declarant, or the initial Board appointed by the declarant as the case may be, shall determine and adopt, prior to the conveyance of the first Unit hereunder, the "estimated cash requirement" for the initial period commencing with the first day of the month in which the sale of the first Unit is closed and ending on December 31 of the calendar year in which such sale occurs, and shall continue to determine the "estimated cash requirement" for each succeeding calendar year until such time as the first Board, elected as provided by the By-Laws, takes office. Assessments shall be levied against the Unit Owners during said periods as provided in Section 6.01 of this Article.

6.04. Failure to Prepare Annual Budget. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the Unit Owners shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay Assessments for maintenance cost and necessary reserves as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, each Unit Owner shall continue to pay a monthly Assessment at the then existing monthly rate established for the previous period until the Assessment which is first due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered to each Unit Owner in the same manner a notice is required to be served upon a Unit Owner under Section 12.03 of the Declaration.

6.05. Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection at the office of the Association, if any, by any Unit



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Owner or any holder of a first mortgage lien on a Unit Ownership, at such reasonable time or times during normal business hours as may be requested by the Unit Owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any Unity Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

6.06. Status of Collected Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special Assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid Assessments or user charges shall be deemed to be held for the benefit, use and account of all the Unit Owners in the percentages set forth in Exhibit "C".

6.07. Start-Up Cost. At the time the initial sale of each Unit is closed, the purchaser of the Unit shall pay to the Association an amount equal to two (2) times the first monthly assessment for such Unit. The sum shall be used and applied for start-up costs and as a working capital fund in connection with all initial operating expenses for the Common Areas and Facilities. This payment shall not be refundable nor be applied as a credit against the Unit Owner's monthly assessment.

6.08. Non-Use and Abandonment. No Unit Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Areas and Facilities or abandonment of a Unit unless title to an abandoned Unit is accepted by the Board in writing pursuant to the By-Laws.

## ARTICLE VII

## Covenants and Restrictions as to Use and Occupancy

7.01. Use and Occupancy. The Property shall be occupied and used as follows:

(a) Each Unit shall be used for residential housing and related common purposes for which the Property was designated and for no other purpose; provided, however, certain commercial Units located on the first floor of the Chatham Building, such commercial Units commonly known by the following addresses:

| | |
|---|---|
| Commercial Unit #1 | 700-702 Massachusetts Avenue |
| Commercial Unit #2 | 708 Massachusetts Avenue |
| Commercial Unit #3 | 716 Massachusetts Avenue |



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may be used for commercial purposes. Such commercial purposes shall never include any of the following: Live entertainment; Massage parlor -- defined to be a place of business engaging in lewd and lascivious conduct; Bar, night club, tavern, or similar use whose business is the sale of liquor to be consumed on or off the premises; Any establishment which sells alcoholic beverages, such as a package liquor store; Any establishment selling food for on or off-site consumption, including, but not limited to any restaurant, deli, grocery and/or convenience store; An "Adult" bookstore or other similar business catering to pornographic interests; Any business selling drug paraphernalia; A theater or cinema; A funeral parlor; A flea market; A motorcycle sales and/or repair business; The sale and/or repair of new or used cars or house trailers or mobile homes; A health spa or exercise facility; An off-track betting parlor; A bowling alley; A billiard parlor; A discotheque; A skating rink; A Good Will/Salvation Army or similar store; A conventions bureau or other place whose primary purposes is the holding of meetings; A bingo parlor; A dance hall; Church or synagogue or other religious operation; or, any manufacturing purpose.

(b) There shall be no obstruction of the Common Areas and Facilities nor shall anything be stored in the Common Areas and Facilities (except in areas designed for such purpose as shown on the attached site plan) without the prior written consent of the Board or except as hereinafter expressly provided. Each Unit Owner shall be obligated to maintain and keep his, her, or their Unit owned in good order and repair.

(c) Nothing shall be done or kept in any Unit or in the Common areas and Facilities which will increase the rate of insurance on a Building or contents thereof without the written consent of the Board. No Unit Owner shall permit anything to be done or kept in his or her Unit or in the Common Areas and Facilities which will result in the cancellation of insurance on a Building, or contents thereof, or which would be in violation of any law. No waste shall be permitted to be placed or otherwise stored in the Common Areas and Facilities, other than in designated areas.

(d) Except for the commercial Units (whose sign rules are set for in sub-paragraph k, herein, and in paragraph 4.05(b)(6), no Unit Owner shall cause or permit anything to be placed on the outside walls of a Building and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior wall or roof or any part thereof; and no Unit Owner shall



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cause or permit the enclosure (either partially or entirely) of any exterior portions of a Building, without the prior written consent of the Board.

(e) In order to enhance the sound condition of the Buildings, the floor covering for all occupied Units shall meet the minimum standard as may be specified by rules and regulation of the Board provided, however, that this provision shall not apply to the upper story of any Unit containing more than one (1) story.

(f) No animals of any kind shall be raised, bred or kept in any Unit or in the Common Areas and Facilities except that one dog (under 10 pounds), cat or caged bird may be kept in a residential dwelling Unit, subject to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon ten (10) days' written notice from the Board. The Board may restrict pets from access to any portions of the Common areas and Facilities. No dog shall be permitted within the Common Areas and Facilities except while on a leash held by a person capable of controlling the dog. Unit Owners shall be responsible for and clean-up any portion of the Common Areas and Facilities soiled by their pet. Specific pets which do not fall into the foregoing categories may be permitted only by a 3/4 majority of the Unit Owners eligible to vote and subject to any rules and restrictions enforced by such majority or by the Board of Association.

(g) No noxious or offensive activity shall be carried on in any Unit or in the Common Areas and Facilities, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to other Unit Owners or occupants.

(h) Nothing shall be done in any Unit or in, on or to the Common Areas and Facilities which will impair the structural integrity of a Building or which would structurally change the Building except as is otherwise provided herein. No Unit Owner shall overload the electric wiring in a Building, or operate machines, appliances, accessories or equipment in manner as to cause, in the judgment of the Board, an unreasonable disturbance to others. No Unit Owner shall overload the floors of any Unit. The use of water-beds and similar furnishings and equipment which may cause floor overloads shall be subject to prior written approval by the Board.



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(i) No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Areas and Facilities. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials which are not in receptacles provided for such propose.

(j) No industry, business, trade, occupation or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, exploration, or otherwise, shall be conducted, maintained or permitted in any residential dwelling Unit.

(k) No sign (other than on sign of reasonable dimensions advertising a condominium for sale or lease) shall be erected or displayed in any Unit if it is visible from without such Unit without the prior written approval of the Board; except that owners of the commercial Units may place signage in their respective windows of a nature and in a manner approved from time to time by owners of a majority of the commercial Units. No signs shall be erected or displayed on or within the Common Area and Facilities except signs placed by authority of the Board. Anything contained in this Declaration to the contrary notwithstanding, Declarant, its successors, assigns and agents as developer of the Property, shall have the right to install and maintain such signs as it deems appropriate in connection with Declarant's construction, sales and leasing activities on the Property. The Declarant or its agents and prospective purchasers and lessees of any Unit from the Declarant are hereby granted the right of ingress, egress and transient parking in and through the Common Areas and Facilities for such Unit sale or leasing purposes. The Declarant further reserves the right to use unsold Units and the Common Areas and Facilities for temporary storage, office, sales and related purposes. The foregoing rights of the Declarant, its successors, assigns and agents as developer of the Property, shall terminate upon the closing of the sale of the last Unit.

(l) Neither the repair nor the storage of inoperative motor vehicles, nor the alteration, overhaul or major maintenance thereof shall be permitted within the Common Areas and Facilities. Any recreation vehicles or equipment shall not be stored or placed for prolonged periods of time (in excess of five (5) days, in the aggregate, in any one month), within the Common Areas and Facilities, including vehicle parking areas constituting a part thereof, without the prior written approval of the Board.



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(m) The Unit restriction in paragraphs (a) and (j) of this Section 7.01 shall not, however, be construed in such manner as to prohibit a Unit Owner from:

(i) Maintaining his or her personal professional library therein;

(ii) Keeping his or her personal business or professional records or accounts therein; or

(iii) Handling his or her personal business or professional telephone calls or correspondence therefrom.

Such uses are expressly declared customarily incidental to the use of a Unit for residential dwelling purposes and not in violation of paragraphs (a) and (j) of this Section 7.01.

(n) No residential dwelling Unit Owner shall be permitted to lease his or her Unit for a term less than thirty (30) days. A Unit Owner of a commercial facility Unit may lease or sub-lease all or any portion of the commercial facility for any permitted use. All such leases and sub-leases shall be in writing. All such lease or sub-lease agreements are subject in all respects to the provisions of this Declaration and any and all rules and regulations from time to time imposed by the Board with respect to the use and enjoyment of the Common Areas and Facilities and any failure by the lessee and/or sub-lessee to comply therewith shall be a default under the lease or sub-lease. Upon written request by the Board, a Unit Owner leasing or sub-leasing a Unit shall supply to the Board a true and correct copy of the lease agreement with respect thereto for review as to compliance with this paragraph.

## ARTICLE VIII

## Insurance and Real Estate Taxes

8.01. Board Insurance Responsibilities. Subject to availability, the Board shall obtain and maintain insurance required by this Article VIII for the benefit and protection, as their interests may appear, of the Declarant, the Association, the Board, Unit Owners, and mortgagees. All such insurance shall be obtained from insurers of recognized responsibility authorized to do do business in the State of Indiana. Premiums and other costs (including appraisal fees) with respect to all such insurance shall (except as specified in Section 8.07) be Common Expenses and premiums shall be paid by the Board no later than thirty (30) days prior to the expiration date of the respective policies, with



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notice of payment given by the Board to each mortgagee whose interest is insured thereby within ten (10) days after the date of payment. The Board shall also provide notice to each Unit Owner and mortgagee whose interests are insured thereunder of the procurement of any insurance by the Board or of any subsequent material changes in the coverages afforded thereby, or in the event of the cancellation of any insurance of the type required under Section 8.02 or 8.03 hereof.

8.02. Fire and Extended Coverage Insurance. The Board shall obtain and maintain fire and extended coverage insurance insuring the Property in an amount equal to the full replacement cost thereof against loss or damage by fire and other risks or perils now or hereafter embraced by standard extended coverage and vandalism and malicious mischief endorsements. The "full insurable replacement cost" of the Property, including the Units and the Common Areas and Facilities, shall be determined from time to time by the Board, which determination may be based upon appropriate insurance appraisals, so that in the event of lesser damage, adequate insurance proceeds will be available to restore the Property to substantially the same condition in which it existed prior to damage or destruction. The fire and extended coverage insurance obtained by the Board shall be in the nature of a master policy of insurance which:

(a) Shall name as insureds, the Declarant, so long as it has an insurable interest, the Association, Board, Unit Owners and mortgagees of the type described in Section 8.01, as the respective interests of all such insureds may appear;

(b) Shall be without contribution as respects other such policies of insurance carried individually by the Unit Owners, whether such other insurance covers the Unit owned and/or addition or improvements made thereto;

(c) Shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making cash settlement therefor, such action shall not be exercisable in the event the Board or Unit Owners elect under Article IX hereof not to repair, restore and reconstruct or elect to sell the Property or remove the Property from the provisions of the Act, or where such action is in conflict with the terms of this Declaration;

(d) Shall provide that such policy shall not be terminated for nonpayment of premium without at least ten (10) days prior written notice to all insureds, including any Mortgagees protected thereunder;

(e) May contain an endorsement extending coverage



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so as to include the payment of Common expenses with respect to damaged Units during the period of reconstruction thereof and until substantial completion and reoccupancy;

(f) Shall contain a provision whereby the insurer waives its rights of subrogation as to any claim against the Declarant, Association, Board, its agents and employees, Unit Owners, their respective employees, agents and guests;

(g) Shall waive any defense under the policy based upon invalidity thereof resulting from any acts or omission of one or more, but not all, of the named insureds;

(h) Shall waive any defense under the policy based upon a failure on the part of one or more, but not all, of the named insureds to comply with the conditions of the policy applicable in the event of a loss; and

(i) Shall provide, notwithstanding the issuance of standard mortgage clause endorsements, that any loss payable thereunder shall be paid to the Board as insurance trustees under this Declaration for application and disbursement in accordance with the provisions of this Declaration.

Such master policy of insurance shall be deposited with the Board as insurance trustee, and a memorandum thereof shall be deposited with any mortgagee whose interest is required to be protected thereunder and who may require same. Certificates shall be issued by the Insurer under such master policy of insurance to each Unit Owner and each mortgagee whose interest is required to be protected thereunder, each such certificate to indicate on its face that it is a part of such master policy of insurance covering the Property and to outline the insurance coverage afforded to each Unit Owner with respect to the Unit or Units owned, including the ownership interest in the Common Areas and Facilities.

§.03. Comprehensive Public Liability and Property Damage Insurance. The Board shall obtain comprehensive public liability and property damage insurance, on a broad form basis, insuring against injury to, including death, persons or damage to or the destruction of property occurring in, upon or about the Property or the streets, passageways and other areas adjoining the Property, or arising out of or in connection with the operation, maintenance, use or control of the Common Areas and Facilities, and insuring against any legal liability for any such injuries or damage resulting from any act or omission on the part of any person for which the Board or Association is or may be liable. Such insurance shall have limits of liability from time to time determined by the



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Board, but in no event shall the limits be less than $1,000,000.00 per occurrence on a combined single-limit basis. Such insurance shall provide coverage of the type herein stated to each Unit Owner, their spouses, the Association, the Board, any managing agent selected or contracted by the Association, other agents and employees of the Association, Board and managing agent, if any, and the Declarant in its capacity as a Unit Owner and Board member, and shall provided coverage with respect to claims of one or more insured parties against other insured parties.

8.04. Workman's Compensation Insurance. The Board shall obtain such workman's compensation insurance as may be necessary to comply with applicable law.

8.05. Fidelity Bonds. The Board shall obtain a fidelity bond indemnifying the Association, the Board and the Unit Owners from and against loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any person regularly handling the funds of the Association, in amounts as determined from time to time by the Board.

8.06. Right of Board to Obtain Other Insurance. In addition to the types of coverage herein specified and required to be obtained by the Board, the Board shall have the right to obtain such other insurance coverages as it may from time to time deem appropriate within its sole discretion for the benefit and protection of the Board, the Association and/or the Unit Owners.

8.07. Unit Owner Insurance Responsibilities. Each Unit Owner shall be responsible for obtaining insurance on the contents of the Unit owned and any furnishings and personal property located therein, and on any personal property stored or located elsewhere on the Property. Each Unit Owner shall also be responsible for obtaining insurance against personal liability to the extent not covered by the insurance obtained by the Board under Section 8.03 hereof. Each such policy of insurance shall be without contribution as respects other such policies of insurance carried by the Association or other Unit Owners; and, shall contain a provision whereby the insurer waives its rights to subrogation as to any claim against the Declarant, Association, the Board, its agents and employees, Unit Owners, their respective employees, agents and guests. If for any reason, a casualty loss is sustained and there is a reduction in the amount of insurance proceeds which would otherwise be payable with respect to such loss under and pursuant to any fire and extended coverage obtained by the Board as required by Section 8.02 hereof, or under any other casualty insurance obtained by the Board in lieu thereof, due to principles of insurance proration based upon insurance purchased by a Unit Owner as described in this section, the Unit Owner shall, and hereby does, transfer and assign to the Board any such insurance proceeds available under individual policies held by such Unit Owner to the extent of the amount of any such reduction. Neither



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the Association nor any Unit Owner is responsible for any loss of business with respect to the commercial Units. Neither the Association nor the Board will provide any business interruption insurance coverage. This coverage, if desired, is to be purchased solely by any commerical Unit Owner desiring it.

Each Unit Owner shall report all additions or alterations to his or her Unit promptly in writing to the Board, without prior request from the Board, and shall reimburse the Board for any additional insurance premiums attributable thereto, and shall be responsible for any deficiency in any insurance loss recovery based upon a failure to so notify the Board. The Board shall not be responsible for obtaining insurance on any such additions, alterations or improvements unless and until such Unit Owner shall make such report and request the Board in writing to obtain such insurance, and shall make arrangements satisfactory to the Board for such additional premiums; and upon the failure of such Unit Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the effected Unit to a condition better than the condition existing prior to the making of such addition, alterations or improvements. "Additions" or "alterations" shall mean property attached to the Unit and not readily removable without damage to the Unit, including but not limited to, carpeting, special floor or wall coverings and paneling.

8.08. Delegation to Board of Right to Adjust Losses. Each Unit Owner hereby delegates to the Board sole and exclusive authority to negotiate with insurance companies as required with respect to the adjustment, handling and payment of any and all losses for which coverage is afforded under policies of insurance obtained by the Board under this Article.

8.09. Unit Owner's Waiver and Release of Claims. Each Unit Owner hereby waives and releases any and all claims which he or she may have against any other Unit Owner, the Association, its officers, members of the Board, Declarant, the manager and managing agent of the Property, if any, and their respective employees and agents, for any damage to the Common Areas and Facilities, the Units, or to any personal property located in the Unit or Common Areas and Facilities caused by fire or other casualty to the extent that such damage is covered by fire or other form of casualty insurance.

8.10. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Unit, but are assessed and taxed on the Property as a whole, then each Unit Owner shall pay his or her proportionate share of such taxes to the extent attributable to the Property in accordance with his or her respective Percentage Interest.



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## ARTICLE IX

### Damage, Destruction, Restoration of Property and Condemnation

9.01. Partial Damage or Destruction of Buildings Containing Units. In the event of any casualty or occurrence resulting in damage to , or the destruction of, less than two-thirds (2/3) of the Buildings containing Units, and unless another course of action is unanimously agreed upon by the Unit Owners at a special meeting called in accordance with the By-Laws for the express purpose of considering other available options, the Board shall cause the damage or destruction to be promptly repaired and the Buildings to be restored and reconstructed. The proceeds from any insurance carried by the Association shall be applied to the cost of such repair, restoration and reconstruction. If insurance proceeds are unavailable or otherwise inadequate to cover the entire cost of such repair, restoration and reconstruction, then the cost, less insurance proceeds, if any, of such repair, restoration and reconstruction shall be borne by each Unit Owner in an amount equal to that Unit Owner's percentage of ownership interest in the Common Areas and Facilities, and such amount shall be assessed as a Common Expense.

9.02. Complete Damage or Destruction of Buildings Containing Units. In the event of any casualty or occurrence resulting in substantial damage to, or the complete destruction of, more than two-thirds (2/3) of the Buildings containing Units, the Board shall call a special meeting of the Unit Owners in accordance with the By-Laws as soon as practicable, and in no event more than sixty (60) days from the date of such damage or destruction, to determine by a vote of no less than two-thirds (2/3) of the vote of the Unit Owners whether a complete destruction has occurred pursuant to the terms of Section 19(b) of the Act. In the event the Unit Owners determine that a complete destruction has occurred, then, by a vote of no less than two-thirds (2/3) of the vote of the Unit Owners, such Unit Owners shall determine whether to repair, restore and rebuild the destroyed Buildings. In the event the Unit Owners elect to repair, restore and rebuild, then the provision of Section 9.01 hereof shall apply to the work to be performed in connection therewith and the payment of the costs resulting therefrom. In the event the Unit Owners elect not to repair, restore or rebuild, then the provisions of Section 21 of the Act shall apply.

9.03. Damage or Destruction to Property Other Than Buildings Containing Units. In the event of damage to, or the destruction of, portions of the Property, other than Buildings containing Units, from any casualty or occurrence against which complete indemnity is afforded by applicable insurance carried by the Association, thereby providing insurance proceeds adequate to defray all costs and expenses incurred for the repair, restoration or reconstruction thereof, the Board shall proceed to provide for



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the repair, restoration or reconstruction thereof as soon as reasonably practicable, unless another course of action is decided upon no less than two-thirds (2/3) of the vote of the Unit Owners taken at a special meeting of the Unit Owners called for the express purpose of considering the question of whether to repair, restore or reconstruct. In the event of any such damage or destruction to portions of the Property other than Buildings containing Units which cannot be repaired, restored or reconstructed through the use of available insurance proceeds, or where such proceeds are inadequate in amount to defray all the costs connected therewith, necessitating an expenditure on the part of the Association in excess of $5,000.00, the Board shall call a special meeting of the Unit Owners in accordance with applicable By-Laws provisions for the purpose of determining, by no less than two-thirds (2/3) of the vote of all of the Unit Owners, whether to repair, restore or rebuild. In the event the Unit Owners vote not to repair, restore or rebuild any such portions of the Property, insurance proceeds, if any, otherwise available for such purpose shall be first applied to tear down, remove or clear away any damage or debris, grade the area, etc., with the remaining proceeds, if any, deposited in the reserve account established in accordance with Section 6.02 of this Declaration to be held by the Board for contingencies and replacements. In the event the Unit Owners vote, to repair, rebuild or restore such portions of the Property, the cost thereof, less applicable insurance proceeds, shall be borne by each Unit Owner in an amount equal to that Unit Owner's percentage of ownership in the Common Areas and Facilities, and such amount shall be assessed as a Common Expense.

2.04. Repair, Restoration or Reconstruction to Original Specifications or As-Built. Any repair, restoration or reconstruction of a Building containing Units following a casualty or occurrence shall be undertaken and conducted so as to restore such Building to a condition either in substantial conformity with the Plans or so as to return the Building involved to its originally as-built condition. Any repair, restoration or reconstruction of portions of the Property other than Buildings containing Units shall be performed and conducted so as to restore such portions of the Property to a condition in substantial conformity with: (i) the Plans; (ii) as originally built; or (iii) plans otherwise approved by two-thirds (2/3) of the vote of all of the Unit Owners taken at a special meeting called by the Board in accordance with the By-Laws for the propose of considering modifications or changes upon effecting any such repairs, restoration or reconstruction.

2.05. Estimates. As soon as practicable following a casualty or occurrence causing substantial damage [in excess of Five Thousand and no/100 Dollars ($5,000.00) per casualty or occurrence, or such lesser amount as the Board may determine] to the Property or any portion thereof for which the Board has the responsibility of maintenance and repair, the Board shall obtain reliable and



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detailed estimates of the cost of repairs, restoration or reconstruction necessary to return the damaged property to the condition existing prior to such casualty or occurrence. Such cost may include professional fees and premiums for such bonds as the Board determines to be necessary or desirable.

2.06. Construction Fund. The proceeds of insurance collected on account of any casualty or occurrence, and any sums received by the Board from collection of Assessments against Unit Owners on account of such casualty or occurrence, shall constitute a construction fund which shall be disbursed in payment of the costs of repair, restoration or reconstruction in the following manner:

(a) Disbursement of Funds. If the amount of the estimated cost of repair, restoration or reconstruction is less than $50,000, then the construction fund shall be disbursed in payment of such costs upon order of the Board.

(b) Architect's Certificate. If the estimated cost of repair, restoration or reconstruction is more than $50,000, then the construction fund shall be disbursed in payment of such costs upon approval of an architect or engineer qualified to practice in Indiana and employed by the Board to supervise such work, with payment to be made from time to time as the work progresses. Such architect or engineer employed shall be required to furnish a written certificate for payment to the Board giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect or engineer, and any other persons who have rendered services or furnished materials in connection with the work stating:

(1) That the sums requested by any of the foregoing ar justly due and owing and that said sums do not exceed the value of the services and materials furnished to the date thereof, including materials suitably stored at the site of the work, less the amount of payments previously made;

(2) That there is no other outstanding indebtedness known for the service and materials for which payment is sought which could result in liens being filed against the Property; and

(3) That the costs as estimated by said architect or engineer for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum requested



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thereby.

(c) Encroachments. Encroachments upon or in favor of Units which may be created as a result of any such repair, restoration or reconstruction shall not constitute a claim or basis of a proceeding or action by the Unit Owner upon whose property such encroachment exists, provided that such repairs, restoration or reconstruction was either substantially in accordance with the Plans utilized at the time of original construction or to return the Building involved to its originally as-built condition. Such encroachments shall be allowed to continue in existence for so long as the building stands.

9.07. Condemnation. In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal from the Act of such portion so taken may be made by the Board. Upon the withdrawal of any Unit or portion thereof due to condemnation or eminent domain, the percentage of interest in the Common Areas appurtenant to such Unit or portion thereof shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to a Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis. Any condemnation award or other proceeds available in connection with the withdrawal of any Limited Common Areas will be distributed in accordance with the interests of those entitled to the use thereof. Upon the withdrawal of any Unit or portion thereof, the responsibility for the payment of assessments on such Unit or portion thereof by the Unit Owner shall cease. Any condemnation award or other proceeds available in connection with the withdrawal of any other part of the Property (other than a Building or portion thereof containing Units or Limited Common Areas) shall be deposited in the reserve account established in accordance with Section 6.02 of this Declaration to be held by the Board for contingencies and replacements, unless by not less than two-thirds (2/3) of the vote of all of the Unit Owners taken at a special meeting called in accordance with the By-Laws to consider the distribution of such award or proceeds, the Unit Owners elect to distribute such award or proceeds to the Unit Owners, in which event such award or proceeds shall be distributed to the Unit Owners by the Board as soon as practicable in accordance with the ownership interest of each Unit Owner in the Common Areas and Facilities.



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## ARTICLE X

## Remedies

10.01. Abatement and Enjoinment. The violation of any restriction, condition or regulation adopted by the Board, or the breach of any covenant or provision of the Declaration, shall give the Board the right, upon not less than ten (10) days' notice (or such longer period as may otherwise be specifically provided herein) and in addition to the rights set forth in the next succeeding section:

(a) To enter upon that part of the Property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Declarant, or their successors or assigns or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

10.02. Involuntary Sale. If any Unit Owner (either by personal conduct or the conduct of any other occupant of the Unit owned) violates any restriction, condition or regulation adopted by the Board, or any covenant or provision of this Declaration, and such violation continues for thirty (30) days after notice in writing from the Board is given to the Unit Owner, then the Board shall have the power to issue the defaulting Unit Owner a ten (10) day notice in writing to terminate the right of said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use or control the Unit owned on account of the breach of covenant and ordering that the right, title and interest of the Unit Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Unit Owner from reacquiring the interest held in the Property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge the lien of any then existing mortgage, court costs, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any other liens, shall be paid to the Unit Owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the Unit Ownership and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the



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decree shall so provide, that the purchaser shall take the interest in the Property sold subject to this Declaration and the purchaser shall have all rights and be subject to all duties and liabilities in the place and stead of the defaulting Owner.

10.03. Remedies for Failure to Pay Common Expenses. Each Unit Owner shall pay the proportionate share of the Common Expenses that it is assessed by the Association through its Board. In the event of the failure of a Unit Owner to pay such Common Expenses when due, the amount thereof shall constitute a lien on the interest of such Unit Owner, as provided by the Act; provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage on the interest of such Unit Owner. Except as hereinafter provided, the lien provided for in this Section 10.03 shall not be affected by any transfer of title to the Unit Ownership. Where title to the Unit Ownership is transferred pursuant to a decree of foreclosure or by deed or assignment in lieu of foreclosure, such transfer of title shall, to the extent permitted by law, extinguish the lien for any Assessments or other charges or payments under Section 6.01 which became due prior to:

(i) The date of the transfer of title; or

(ii) The date on which transferee comes into possession of the Unit, whichever occurs first.

However, the transferee of a Unit Ownership shall be liable for the share of any Assessments or other charges or payments with respect to which a lien against Unit Ownership has been extinguished pursuant to the preceding sentence which are reallocated among the Unit Owners pursuant to a subsequently adopted annual, revised or special Assessment, and nonpayment thereof shall result in a lie against the transferee's Unit Ownership as provided in this Section 10.03. If any Owner fails to pay any installment of such Assessment within thirty (30) days after notice of default, the Board may accelerate the maturity of the remainder of installments of such Assessment due from such Unit Owner for the balance of the assessment year, and may enforce collection thereof and of all user charges then or thereafter falling due. A "late charge" in an amount fixed by the Board at each annual meeting shall be charged to and assessed against such defaulting Unit Owner until paid. In addition to the foregoing, the Board (or the Declarant in the exercise of the powers, rights, duties and functions of the Board as provided in Section 11.01 hereof) or its agents shall have such other rights and remedies to enforce such collection as shall otherwise be provided or permitted from time to time by the Act or other applicable law.

10.04. Attorney and Legal Fees. All expenses of the board in connection with such actions or proceedings described in Sections 10.01 and 10.03 above, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or



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otherwise, together with interest thereon at the rate of either twelve percent (12%) per annum or the maximum rate permitted by law, whichever is less, until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Unit Owner and upon all of his or her additions and improvements thereto and upon all of his or her personal property in the Unit owned or located elsewhere on the Property. Any and all such rights and remedies may be exercised at any time and from time to time cumulatively, or otherwise, by the Board. In addition, any aggrieved Unit Owner shall have the same rights and remedies as Board hereunder in connection with any such violation.

ARTICLE XI

Miscellaneous Provisions Re: Mortgagees

The following provisions are intended for the benefit of each holder of a first mortgage upon a Unit, and to the extent, if at all, that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

(a) Any first mortgagee of a Unit who comes into possession of the mortgaged Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, shall take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Unit which accrue prior to the time such holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units, including the mortgaged Unit).

(b) Upon request in writing, each first mortgagee of a Unit shall have the right:

(i) To examine the books and records of the Association during normal business hours;

(ii) To receive an annual financial statement from the Association within ninety (90) days following the end of each of its respective fiscal years;

(iii) To receive notice of any decision by the Unit Owners to make a material amendment to this Declaration or the By-Laws or Articles of the Association.



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(c) There shall be included in each annual assessment levied by the Association (but not as a special assessment) an amount sufficient to establish an adequate reserve fund for the replacement of the Common Areas and Facilities.

(d) Unless the first mortgagees of all of the individual Units which have become a part of the Property have given their prior written approval, neither the Association nor the Unit Owners shall be entitled to:

(i) by act or omission seek to abandon or terminate the condominium regime, except for abandonment provided by the Act in the case of the complete destruction of a Building or Buildings;

(ii) Change the pro rata interest or obligations of any Unit Owner for (1) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or (2) determining the pro rata share of ownership of each Unit Owner in the Common Areas, except as otherwise specifically provided by this Declaration;

(iii) Partition or subdivide any residential dwelling Unit;

(iv) By act or omission seek to abandon partition, subdivide, sell or transfer the Common Areas and Facilities. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas by the condominium project shall not be deemed a transfer within the meaning of this clause; and

(v) Use hazard insurance proceeds from insurance required to be maintained by the Association for losses to any Property (whether to Units or to Common Areas) for other than the repair, replacement or construction of such improvements, except as provided by statute in the case of substantial loss to the Units and/or the Common Areas and Facilities; and

(e) Upon specific written request to the Association, each first mortgage of a Unit shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Areas and Facilities, if such damages or destruction or taking exceeds Twenty-Five Thousand Dollars ($25,000.00).



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ARTICLE XII

General Provisions

12.01. Certain Rights of the Declarant. Until the election under the By-Laws of the initial Board by the Unit Owners, the rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board in the Act, the By-Laws and in this Declaration shall be held and performed by the Declarant, unless and until notice by the Declarant to the Unit Owners, given at least thirty (30) days in advance, of its resignation and unwillingness to continue to serve in such capacity. In exercising such rights, and the other rights reserved by the Declarant pursuant to this Declaration, the Declarant (or its designees on the Board) shall not be under any disability which would otherwise be imposed by law because of the Declarant's interest in the subject matter of any transaction; provided, however, that any such transaction shall have been entered into in good faith.

12.02. Notice to Mortgagees. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of any and all notices permitted or required by this Declaration to by given to the Unit Owner whose Unit Ownership is subject to such mortgage or trust deed.

12.03. Manner of Giving Notices. Notices provided for in this Declaration, the By-Laws and in the Act shall be in writing and shall be addressed to the Board or Association, or any Unit Owner, as the case may be, at the address of the respective Unit Owner (indicating thereon the number of a respective Unit if addressed to a Unit Owner), or at such other address as herein provided. Any Unit Owner may designate a different address or addresses for notices by giving notice of a change of address to the Secretary of the Association. Notices addressed as above shall be deemed delivered three (3) business days after being mailed by United States first class mail, postage prepaid, or when delivered in person with written acknowledgement of the receipt thereof, or if addressed to a Unit Owner, when deposited in the Unit Owner's mailbox at the Unit owned.

12.04. Notices to Estate or Representatives. Notices required to be given any devisee, heir or personal representative of a deceased Unit Owner may be delivered either personally or by mail to such party at the address appearing in the records of the court wherein the estate of such deceased Unit Owner is being administered.

12.05. Conveyance and Leases. Each grantee of the Declarant and each subsequent grantee by the acceptance of a deed of conveyance, and each purchaser under a purchase contract therefor, and each tenant under a lease for a Unit, accepts the same subject



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to all restrictions, conditions, covenants, reservation, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person, firm, corporation or other legal entity having at any time any interest or estate in the Property, and shall inure to the benefit of each Unit Owner in like manner as though the provisions of the Declarant were recited and stipulated at length in each and every deed of conveyance.

12.06. No Waivers. No covenants, restrictions, conditions, obligations, or provisions contained in the Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

12.07. Change, Modification, or Rescission. No provision of this Declaration affecting the rights, privileges and duties of the Declarant may be modified without Declarant's written consent. The provisions of Section 9.03, Article XI and the following provision of Section 12.07 of the Declaration may be changed, modified, or rescinded by an Instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, and by all of the Unit Owners and all mortgagees having bona fide liens of record against any of the Unit Ownerships. Other provisions of this Declaration (except the By-Laws) may be changed, modified or rescinded by an Instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, and approved by seventy-five percent (75%) [sixty-six and two-thirds percent (66 2/3%) in the case of a rescission, change or modification of the By-Laws] of the vote of the Unit Owners at a meeting called for that purpose. Any change, modification or rescission approved by the Unit Owners as herein provided shall be effective upon recordation in the Office of the Recorder of Marion County, Indiana, of an instrument of Amendment having specific reference to this Declaration which sets forth such change, modification or recession.

12.08. Severability. Should any provision in this Declaration be void or become invalid or unenforceable in law or equity by judgment or court order, the remaining provisions hereof shall be and remain in full force and effect.

12.09. Liberal Construction. The Provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium development comprising the Property and Parcel.

12.10. Special Amendment. Declarant reserves the right and power to record a special amendment ("Special Amendment") to this



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Declaration at any time and from time to time which amends this Declaration:

(i) To comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities;

(ii) To induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Unit Ownerships;

(iii) To bring this Declaration into compliance with the Act; or

(iv) To correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto.

In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Unit Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument effecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation and grant to Declarant of the power to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant no longer holds or controls title to a Unit.

12.11. Interpretation. All questions of interpretation or construction of any of the provisions contained in this Declaration shall be resolved by the Board, and its decision shall be final, binding and conclusive on all parties affected.

12.12. Gender, Singular, Plural. Whenever the context so permits, the use of the plural shall include the singular, the plural and any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, R.G.K. Real Estate Development Company, an Indiana general partnership, has caused this Declaration to be executed the day and year first above written.



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R.G.K. REAL ESTATE DEVELOPMENT COMPANY,
an Indiana General Partnership

By: _____
Richard O. Johnson, General Partner

STATE OF INDIANA )
) SS:
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Richard O. Johnson, the general partner of R.G.K. Real Estate Development Company, known to me to be an Indiana general partnership, who, after having been duly sworn, acknowledged the execution of the foregoing Declaration.

WITNESS my hand and Notarial Seal this 23rd day of March, 1993.

Christina R. Smith
(Christina R. Smith) Notary Public

My Commission Expires:
4-9-95

My County of Residence:
Marion

THIS INSTRUMENT PREPARED BY STEPHEN F. KINNAN, ATTORNEY AT LAW, 36 SOUTH PENNSYLVANIA STREET, SUITE 710, INDIANAPOLIS, INDIANA 46204 (317) 633-4000



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EXHIBIT "A"

LEGAL DESCRIPTION:

All of Lot 6, all of Lot 7, and part of Lot 8 in Out Lot 42 in John Wood's Subdivision of Out Lots 1, 41, and 42 of the Donation Lands of the City of Indianapolis as per plat thereof recorded in Land Record G, page 563, in the Office of the Recorder of Marion County, Indiana, described as follows:

Beginning at a point on the West line of said Lot 8 South 00 degrees 00 minutes 00 seconds East (bearing based on the centerline of Park Avenue as being North 00 degrees 00 minutes 00 seconds East) 47.37 feet from the Northwest corner of said Lot 8 (rebar with cap "P.I. Cripe Inc." set, hereafter designated as R.W. C.) to a point 1.37 feet North of the south line of Lot 8; thence South 89 degrees 45 minutes 49 seconds East parallel with the south line of Lot 8 a distance of 45.00 feet ("PK" nail set); thence perpendicular to said South line North 00 degrees 14 minutes 11 seconds East 20.00 feet ("PK nail set); thence South 89 degrees 45 minutes 49 seconds East 28.00 feet ("PK" nail set); thence North 00 degrees 14 minutes 11 seconds East 2.83 feet ("PK" nail set); thence North 00 degrees 14 minutes 11 seconds East 25.37 feet ("R.W.C." set) to the North line of the North half of said Lot 8; thence along said North line South 89 degrees 45 minutes 49 seconds East 64.81 feet to the Northeast corner of said Lot 8; thence along the East line of said Lot 8 and Lot 7 South 00 degrees 00 minutes 00 seconds East 71.76 feet to the East corner of Lot 7; thence along the Southeasterly line of Lot 7 and the east line of Lot 6 South 47 degrees 29 minutes 23 seconds West 109.79 feet to the Southeast corner of Lot 6; thence along the South line of Lot 6 North 89 degrees 41 minutes 55 seconds West 59.07 feet to the Southwest corner of Lot 6; thence along the West line of Lot 6, Lot 7, and part of Lot 8 North 00 degrees 00 minutes 00 seconds East 98.85 feet to the place of beginning.

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EXHIBIT "B"

CODE OF BY-LAWS

OF THE

CLIFFORD AND CHATHAM PLACE CONDOMINIUM ASSOCIATION, INC.

ARTICLE I

Identification

Section 1. Name. The name of the Corporation is "The Clifford and Chatham Place Condominium Association, Inc." (the "Corporation").

Section 2. Principal Office and Resident Agent. The post office address of the principal office of the Corporation is 700 Massachusetts Avenue, Indianapolis, Indiana 46204. The name and post office address of its Resident Agent is Richard O. Johnson, 700 Massachusetts Avenue, Indianapolis, Indiana 46204.

Section 3. Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January in each year and shall end on December 31st next succeeding.

Section 4. The Development. This Corporation and these Code of By-Laws are to govern the management, procedure, and maintenance of all improvements regarding the renovation of the Clifford and the Chatham buildings located in downtown Indianapolis, Indiana (the "Development").

ARTICLE II

Members

Section 1. Membership. Each Unit Owner of the Development, as more particularly defined in a certain Declaration of Horizontal Property Regime (the "Declaration") relating to the Development as recorded or to be recorded in the office of the Recorder of Marion County, Indiana, shall be a member of the Corporation. If any Unit is owned jointly by more than one person, entity or combination thereof, there shall be only one person with respect to such Unit entitled to vote.

Section 2. Place of Meeting. All meetings of members of the Corporation shall be held at such place, within the State of Indiana, as may be determined by the Board of Directors and specified in the notices or waivers of notice thereof or proxies to represent members at such meetings.

Section 3. Annual Meetings. The annual meeting of members shall be held on the third Thursday in March of each year, if such day is not a legal holiday, or if a legal holiday, then on the next



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succeeding business day which is not a legal holiday.

Section 4. Special Meetings. Special meetings of members may be called at any time for the purpose of considering matters which require the approval of all or some of the voting members, or for any other reasonable purpose. Any special meeting shall be called by written notice. A special meeting can be called by: 1) the Board of Directors; 2) the President; or 3) by members holding at least ten percent (10%) of all the votes entitled to be voted at any meeting. Written notice shall be delivered not less than ten (10) business days prior to the date fixed for such meeting. The notices shall specify the date, time and place of meeting and the matters to be considered.

Section 5. Notice of Meetings. Written or printed notice stating the place, day and hour of a meeting and, in 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 Corporation to each member of record of the Corporation entitled to vote at the meeting, at such address as appears upon the records of the meeting. Notice of any meeting of the members may be waived in writing by any member if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called and the time and place thereof. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 6. Voting at Meetings.

(a) Voting Rights. The Corporation shall have a single class of voting membership. A member's voting rights with respect to the affairs of the Corporation shall be equal to the number of Units, as defined in the Declaration, that each member owns in the Development. The ownership of one Unit entitles a member to one vote. Any or all of the members may be present at any meeting of the Voting Members, as defined herein, and may vote or take any action as a member, either in person or by proxy.

(b) Proxies. A Voting Member is entitled to vote either in person or by proxy, executed in writing by such Voting Member or by his or her duly authorized attorney-in-fact and delivered to the Secretary of the meeting. Proxies shall be valid only for the particular meeting designated thereon and must be filed with the Secretary before the scheduled time of the meeting. In any meeting of the Voting Members called for the purposes of electing the Board of Directors of the Corporation each member shall be permitted to cast the number of votes to which he or she is entitled, as hereinabove set forth, for each Director of the Corporation to be elected at such meeting.

(c) Quorum and Adjournments. The presence in person or by proxy of the Voting Members constituting the representation of a majority of the total votes shall constitute a quorum. Unless



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otherwise expressly provided herein, any action may be taken at any meeting of the Voting Members at which a quorum is present upon the affirmative vote of the Voting Members having a majority of the total votes present at such meeting. Any meeting of the Voting Members, including both annual and special meetings and any adjournments thereof, may be adjourned to a later date without notice other than announcement at the meeting even though less than a quorum is present.

Section 7. List of Members. At least five (5) business days before such meeting of Voting Members, the Secretary of the Corporation shall prepare or cause to be prepared a complete list of the members of the Corporation entitled to vote at such meeting (the "Voting Members"; arranged in alphabetical order with the address of such members, and the number of votes each member is entitled to vote at the meeting. This list shall be available for inspection and photocopying by any member, for the purpose of allowing any member to communicate with other members concerning any issues or matters to be discussed and/or voted upon at the meeting. The original or duplicate membership list shall be the only evidence as to the persons who are entitled as members to vote at such meeting. Any member or a member's agent, or an attorney authorized in writing by a member, may inspect and photocopy this membership list, during regular business hours and at the member's expense.

Section 8. Action by Written Consent. Any action required or permitted to be taken at any meeting of the members may be taken without a meeting, if prior to such action, a written consent thereto, setting forth the action so taken, is signed by all the members entitled to vote with respect to the subject matter thereof, and such written consent is filed with the minutes of the proceedings of the members. Such consent shall have the same effect as a unanimous vote of the members.

## ARTICLE XII

## Directors

Section 1. Number and Term of Office. The Board of Directors shall consist of three (3) members, each of whom must be Unit Owner of the Development, as provided in the Declaration. The Directors shall serve without compensation unless such compensation is approved by the members holding a majority of the total votes. The Board shall be elected by the members at their annual meeting and shall hold office until the next ensuing annual meeting of the members or until their successors have been duly elected and qualified. If a member of the Board of Directors shall cease to meet any qualification herein required for a member of the Board then his or her place on the Board shall be deemed vacant. The members may remove any member of the Board with or without cause, and elect a successor at a meeting of the members called expressly



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for such purpose.

Section 2. Vacancies. Vacancies occurring in the membership of the Board of Directors caused by resignation, death or other incapacity, shall be filled by a majority vote of the remaining members of the Board, and each Director so elected shall serve until the next meeting of the members, or until his or her successor shall have been duly elected and qualified. A notice specifying the name, address and principal occupation of, and other pertinent information about any Director elected to fill any vacancy, shall be given in the next mailing sent to the members after such election.

Section 3. Annual Meetings. The Board of Directors shall meet annually, without notice, immediately following, and at the same place as, the annual meeting of the members.

Section 4. Regular Meetings. Regular meetings shall be held at such times and places, within the State of Indiana, as may be determined by the President or Board of Directors.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by the President or by any member of the Board of Directors, at any place within the State of Indiana, upon ten business days prior notice, specifying the time, place and the specific purposes of the meeting, given to each Director personally, by telephone or telegraph; or notice may be given by mail if mailed at least twelve (12) days before such meeting.

Section 6. Waiver of Notice. Any Director may waive notice of any meeting in writing. Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting.

Section 7. Quorum. A majority of the entire Board of Directors then qualified and acting shall constitute a quorum and be sufficient for transaction of any business, except for filling vacancies in the Board of Directors which shall require action by a majority of the remaining Directors. Any act of the majority of the Directors present at a meeting at which a quorum shall be present shall be the act of the Board unless otherwise provided for by law or by these By-Laws. A majority of the Directors present may adjourn any meeting from time to time. Notice of an adjourned meeting need not be given other than by announcement at the time of adjournment.

Section 8. Action by Written Consent. Action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action, a written consent thereto is signed by all the members of the Board, and such written consent is filed with the minutes of the proceedings of the Board.



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Section 9. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association, and shall do all such acts and things as required to be exercised and done by the Association. The Board of Directors shall have the power from time to time to adopt any rules and regulations deemed necessary for the benefit and enjoyment of the Development; provided, however, that these rules and regulations shall not be in conflict with the Declaration. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of the Board on any matters relating to the duties of a managing agent, as defined below, if any, that may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by these By-Laws, the Declaration, or by any resolution of the Association that may hereafter be adopted, the Board shall on behalf of the Association:

a. Determine the assessments of each Unit Owner for the common expenses and other costs of the Development. In making this determination, the Board will take into account that certain expenses attributed only to the Residential Units, such as the elevator and hallways, shall not be assessed against the commercial Units;

b. Establish the means and methods of collecting these assessments from the various Unit Owners and establish the period of the installment payment of the annual assessment for common expenses;

c. Collect the assessments against the Unit Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Development;

d. Provide for the operation, care, upkeep and maintenance of all aspects of the Development;

e. Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the common areas and provide services for the Development, and, when appropriate, provide for the compensation of these personnel and for the purchase of equipment, supplies and material that these personnel shall use in the performance of their duties, which supplies and equipment shall be deemed part of the Development;

f. Make and amend administrative rules and regulations;

g. Open bank accounts on behalf of the Association and designate the signatories thereon;

h. Make, or contract for the making of, repairs, additions and improvements to or alterations of the Development, and repairs



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to and restoration of the Development, in accordance with these By-Laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

i. Enforce by legal means the provisions of the Declaration, these By-Laws and the rules and regulations promulgated by the Board of Directors from time to time; act on behalf of the Unit Owners with respect to all matters arising out of any eminent domain proceeding; and, notify the Unit Owners of any litigation against the Association involving a claim in excess of ten percent (10%) of the amount of the annual budget;

j. Obtain and carry insurance against casualties and liabilities, as provided in the Declaration, and pay the premiums therefore and adjust and settle any claims thereunder;

k. Approve of all agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of Two Thousand Dollars ($2,000.00); and, all checks drawn upon reserve accounts shall be executed by any two (2) persons designated by the Board of Directors. All such instruments for expenditures or obligations of Two Thousand Dollars ($2,000.00) or less, except from reserve accounts, may be executed by any one person designated by the Board of Directors;

l. A managing agent may be employed by the Board, whose compensation shall be determined by the Board. The managing agent shall be a bona fide business enterprise, unaffiliated with the Declarant, that manages common interest residential communities. This firm or its principals shall have a minimum of two years' experience in real estate community management and shall employ persons possessing a high level of competence in the technical skills necessary to manage properly the Development. The managing agent must be able to advise the Board of Directors on the administrative operation of the Development and shall employ personnel knowledgeable in the areas of condominium insurance, accounting, contract negotiation, labor relations and condominium regulation. The managing agent shall perform such duties and services as the Board of Directors shall direct.

m. These duties and services may include, without limitation, the duties listed in this subsection 9 (c), (d), (e), (h), and (j). The Board of Directors may delegate to the managing agent all of the powers granted to the Board of Directors by these By-Laws other than the powers set forth in subsections 9 (a), (b), (f), (g), (i), (k) and (l). The managing agent shall perform the obligations, duties and services relating to the management of the Development, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these By-Laws.



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## ARTICLE IV

## Officers

Section 1. Number of Officers. The officers of the Corporation shall consist of a President, a Secretary, a Treasurer, and such officers of assistant officers as the Board shall from time to time create and so elect. Any two (2) or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person. The President shall be chosen from among the Directors. Officers shall serve without compensation unless such compensation is approved by the members holding a majority of the total votes.

Section 2. Election and Terms. Each officer shall be elected by the Board of Directors at the annual meeting thereof and shall hold office until the next annual meeting of the Board or until his or her successor shall have been elected and qualified or until his or her death, resignation or removal. Any officer may be removed at any time, with or without cause, by vote of a majority of the whole Board, but such removal shall be without prejudice to the contract rights, if any, of the person so removed; provided, however, that election of an officer shall not of itself create contract rights.

Section 3. Vacancies. Whenever any vacancy shall occur in any office by death, resignation, increase in the number of officers of the Corporation, or otherwise, the same shall be filled by the Board of Directors, and the officer so elected shall hold office until the next annual meeting of the Board or until his or her successor is duly elected or appointed.

Section 4. President. The President shall be the chief executive officer of the Corporation; shall preside at all meetings of members and of the Board of Directors; shall have general and active supervision, control and management of the affairs and business of the Corporation, subject to the orders and resolutions of the Board; shall have general supervision and direction of all officers, agents and employees of the Corporation; shall see that all orders and resolutions of the Board are carried into effect; and in general shall exercise all powers and perform all duties incident to such office and such other powers and duties as may from time to time be assigned to him by the Board.

The President shall have full authority to execute proxies in behalf of the Corporation, and to execute, with the Secretary, powers of attorney appointing other corporations, partnership, or individuals the agent of the Corporation, all subject to the provisions of the laws of the State of Indiana, the Declaration, the Articles of Incorporation and this Code of By-Laws.

Section 5. Secretary. The Secretary shall attend all



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meetings of the Board and of the members and shall act as Secretary of such meetings; shall give or cause to be given all notices provided for in these By-Laws or required by law; shall record all votes and minutes of all proceedings of the meetings of members and the Board in a book or books to be kept for that purpose; shall be custodian of the records of the Corporation; shall have charge of the list of members; and in general shall exercise all powers and perform all duties as may be from time to time assigned to him or her by the Board or by the President.

Section 6. Treasurer. The Treasurer shall keep correct and complete records of account showing accurately at all times the financial condition of the Corporation; shall be the custodian of the corporate funds and securities; shall immediately deposit, in the name and to the credit of the Corporation, all moneys and other valuable effects of the Corporation in such depositories as may be designated by the Board of Directors; shall disburse the funds of the Corporation as may be ordered by the Board of by the President; and in general, shall exercise all powers and perform all duties customarily incident to such office and such other powers an duties as may from time to time be assigned to him or her by the Board or the President.

## ARTICLE V

## Books and Records

Section 1. Books and Records, in General. The Board of Directors shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Development as defined in the Declaration, specifying and itemizing the maintenance and repair expenses of the Development and other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any member or any representative of a member duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by such member. Upon ten (10) days prior notice to the Board and payment of a reasonable fee, any member shall be furnished a statement in recordable form of his or her account setting forth the amount of any unpaid assessment or other charges due and owing from such member, and such amount shall be binding upon the Board and the Corporation, and any mortgagee or grantee of such member furnished with such statement shall not be liable for, and the Unit owned by such member shall not be conveyed subject to a lien for any unpaid assessment in excess of the amount set forth in such statement.

## ARTICLE VI

## Execution of Instruments

Section 1. Checks, Drafts, etc. All checks, drafts, bills of exchange or other orders for the payment of money, obligations,



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notes or other evidences of indebtedness of the Corporation shall be signed or endorsed by such officer or officers, employee or employees of the Corporation as shall from time to time be designated by the Board of Directors.

Section 2. Contracts. All contracts, agreements, deeds, conveyances, mortgages and similar instruments authorized by the Board of Directors shall be signed, unless otherwise directed by the Board of Directors or required by law, by the President and attested by the Secretary.

## ARTICLE VIX

## Amendments and Definitions

Section 1. Amendments. These By-Laws may be altered, amended or repealed from time to time by a majority vote of the Unit Owners at any regular or special meeting if the notice or waiver of notice of said meeting shall have stated that the By-Laws are to be amended, altered, or repealed or if all Unit Owners at the time are present at said meeting.

Section 2. Definitions. The terms used in these By-Laws shall have the same meaning as the same terms as defined and used in the Declaration.

## ARTICLE VII

## The Indiana Non-Profit Corporation Act of 1991

The provisions of the Indiana Non-Profit Corporation Act of 1991, as amended, is applicable to any of the matters not herein specifically covered by these By-Laws, are hereby incorporated by reference in and made a part of these By-Laws.

Adopted: March 23, 1993

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Order: Comm-3 Comment:

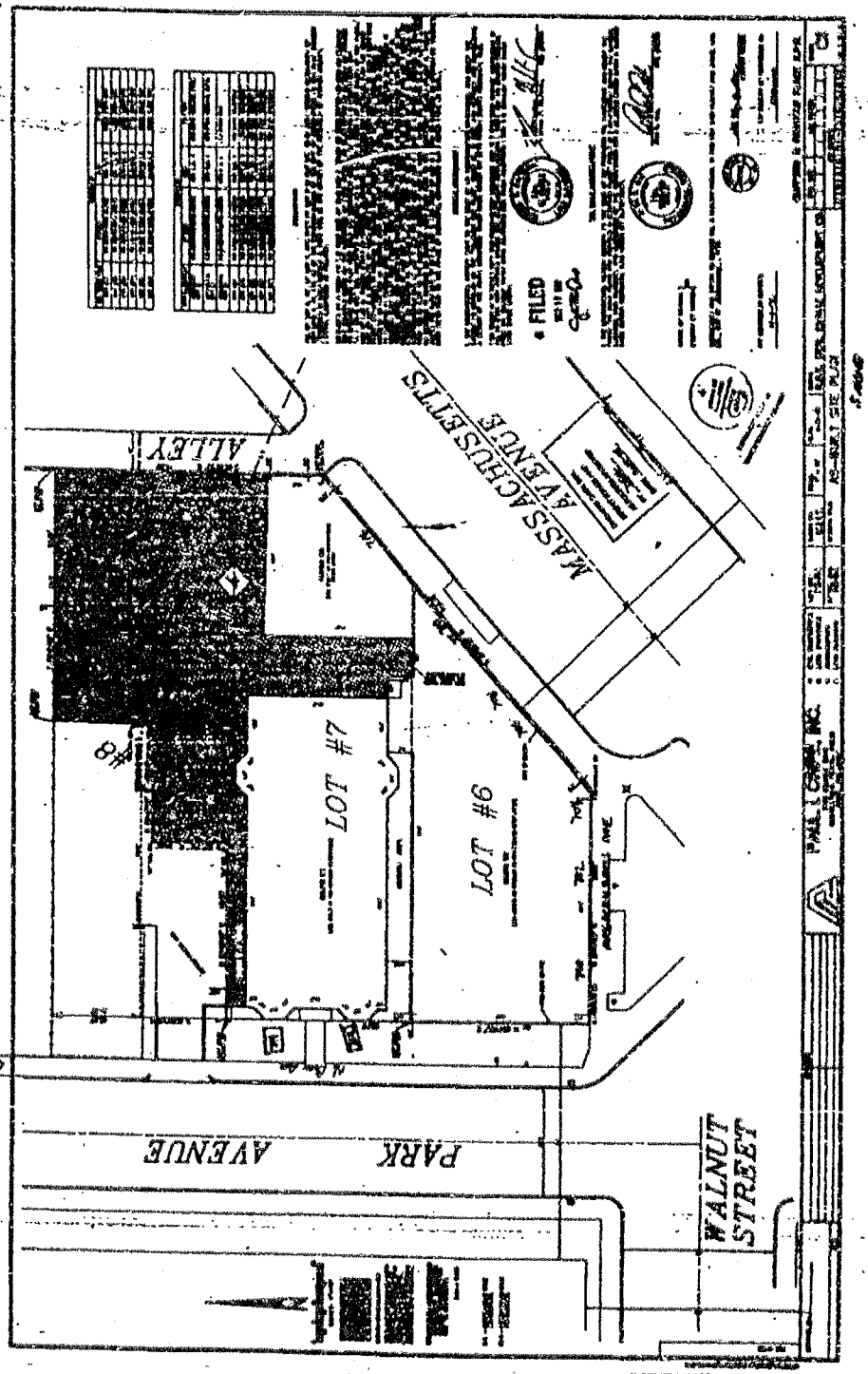
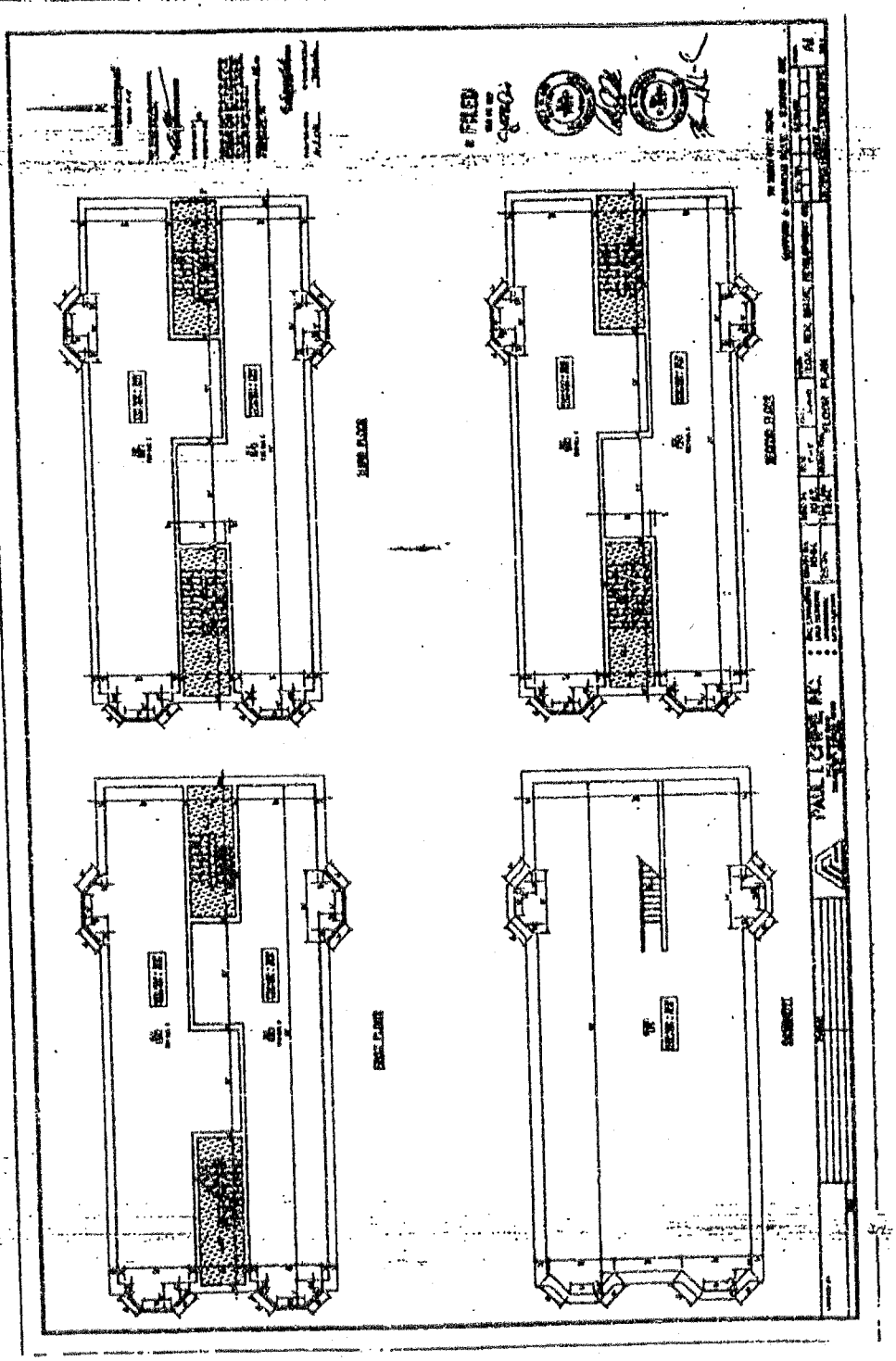


EXHIBIT "C"
93033593
ALLEY
MASSACHUSETTS AVENUE
LOT #7
LOT #6
PARK AVENUE
WALNUT STREET

EXHIBIT "D"



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[redacted]

**COMMON AREA EXPENSES ASSESSED AGAINST ALL UNIT OWNERS** - Since the following items provide a benefit to both Residential and Commercial Unit Owners, their expenses for maintenance, upkeep, and repair are to be assessed against all Unit Owners. They include but are not limited to the following areas:

Buildings' Roofs
Buildings' Exterior
Buildings' Windows (Exterior)
Buildings' Grass Areas
Buildings' Sidewalks
Buildings' Water Pipes & Sewer Lines
Buildings' Fire Alarm/Sprinkler System
Basement Storage (Clifford ONLY)

**LIMITED COMMON AREA EXPENSES ASSESSED AGAINST THE RESIDENTIAL UNIT OWNERS** - Since the below listed facilities which are also depicted on Exhibits "C" & "D" are for the exclusive use of the Residential Unit Owners ONLY, their expenses for maintenance, upkeep, and repair are to be assessed only against the Residential Unit Owners. They include but are not limited to:

Hallways-Stairs
Elevator
Parking Lot-Garages
Electrical/HVAC (Hallways)
Parking Lot Lights

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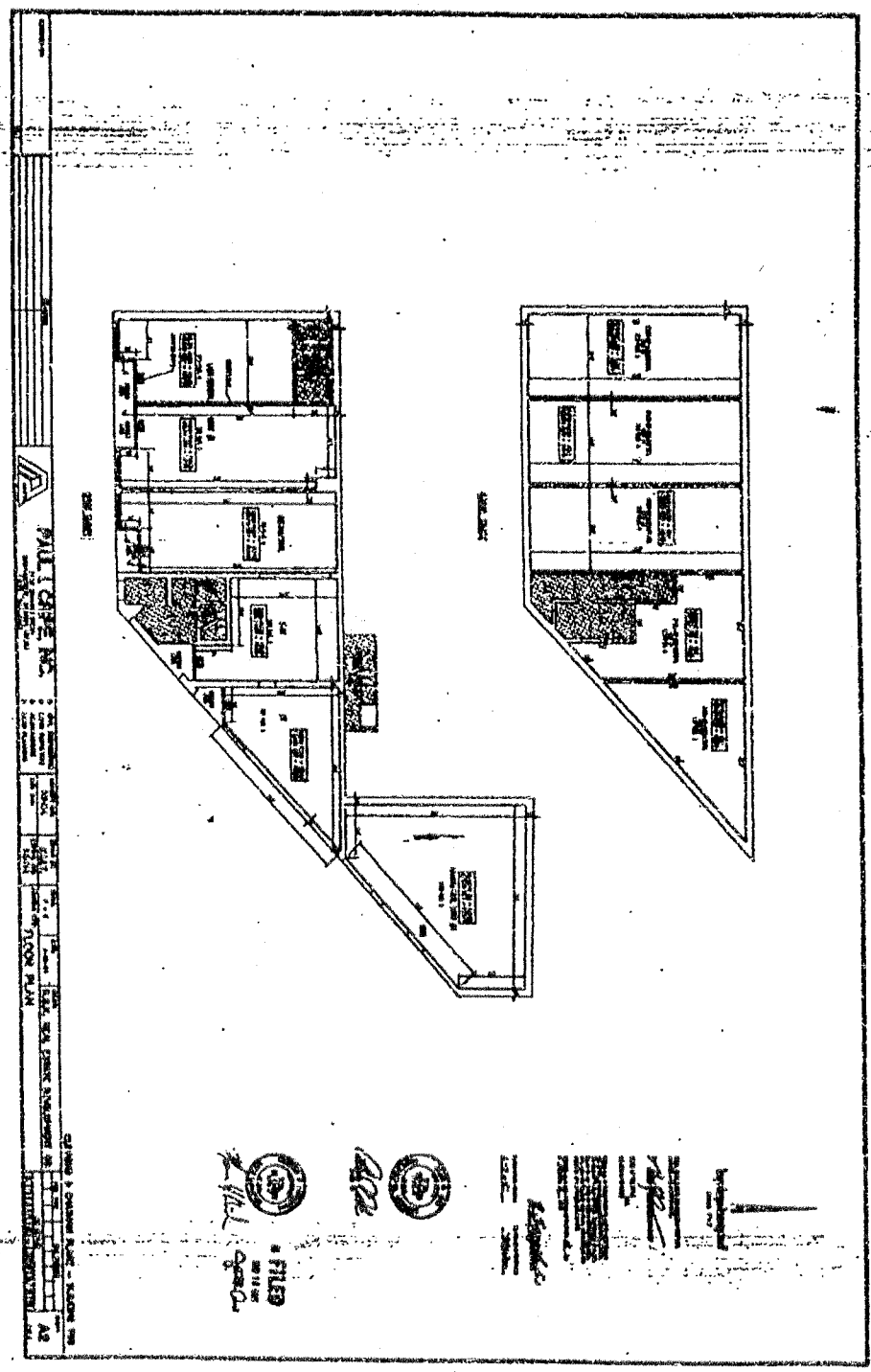
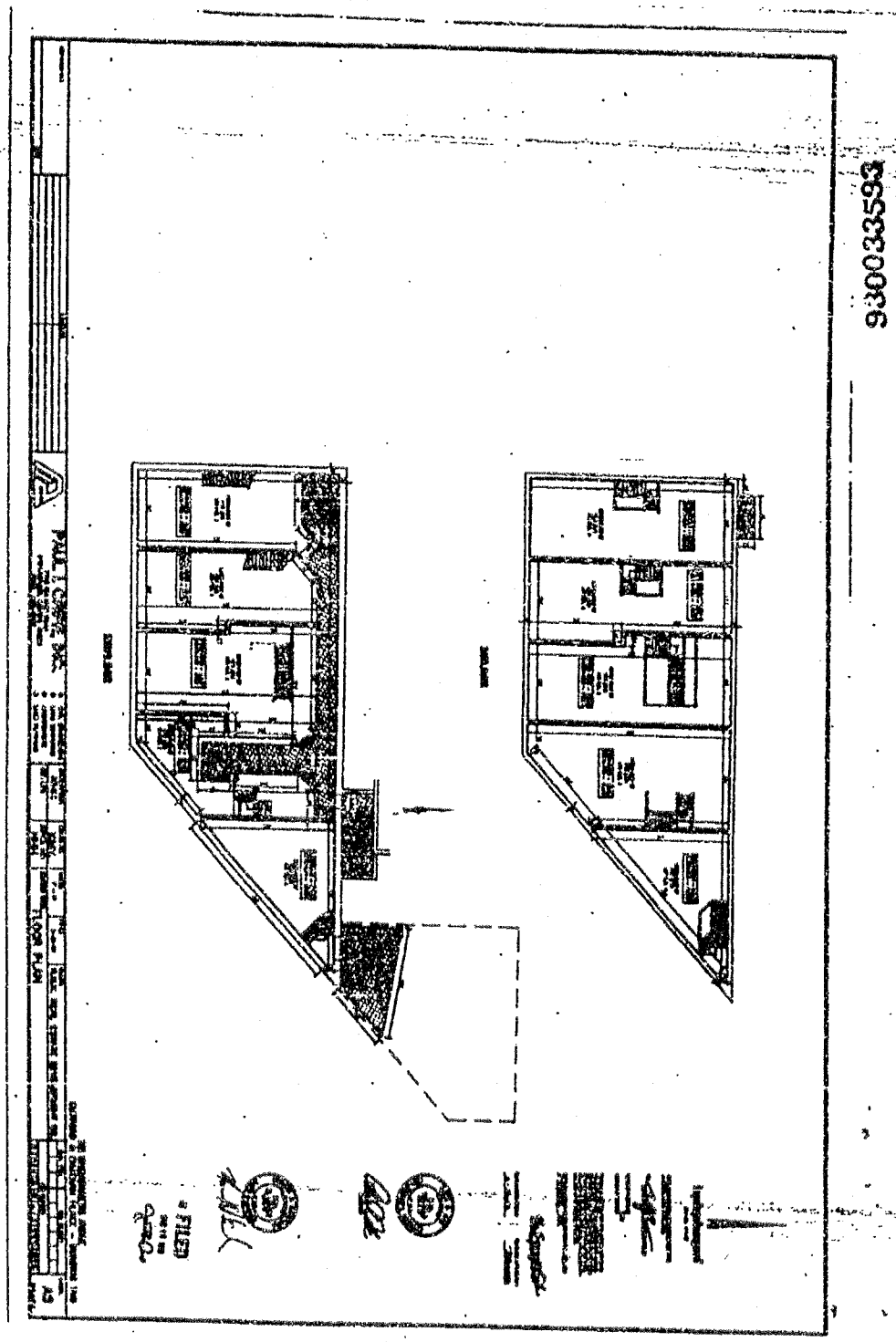




9300033593

AMENDED AND CONFORMED EXHIBITS "C", "D", AND "E"

TO THE

DECLARATION OF HORIZONTAL PROPERTY REGIME

AND THE

EASEMENTS, RESTRICTIONS, COVENANTS

AND BY-LAWS FOR THE

CLIFFORD AND CHATHAM PLACE

CONDOMINIUM ASSOCIATION

THAT WAS FILED OF RECORD ON MARCH 33, 1993

AS INSTRUMENT #93-33693

THIS INSTRUMENT, EXECUTED AND ACKNOWLEDGED BY THE UNDERSIGNED, BEING THE DECLARANT UNDER A CERTAIN "DECLARATION OF HORIZONTAL PROPERTY REGIME AND THE EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS FOR THE CLIFFORD AND CHATHAM PLACE CONDOMINIUM ASSOCIATION" AND RECORDED MARCH 33, 1993 IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA, AS INSTRUMENT #93-33693, HEREBY AMENDS SUCH DECLARATION AS FOLLOWS:

1. EXHIBITS "C", "D", AND "E" ARE HEREBY REPLACED AND SUPERSEDED BY THE EXHIBITS ATTACHED TO THIS INSTRUMENT.

2. THE DECLARATION, AS AMENDED HEREBY, SHALL CONTINUE IN FULL FORCE AND EFFECT.

R.G.K. REAL ESTATE DEVELOPMENT COMPANY,
an Indiana General Partnership

By: _____
Richard O. Johnson, General Partner

STATE OF INDIANA )
) SS:
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Richard O. Johnson, the General Partner of R.G.K. Real Estate Development Company, who after having been duly sworn, acknowledged the execution of the foregoing instrument.

Witness my hand and Notarial Seal this 31st day of March 1993.

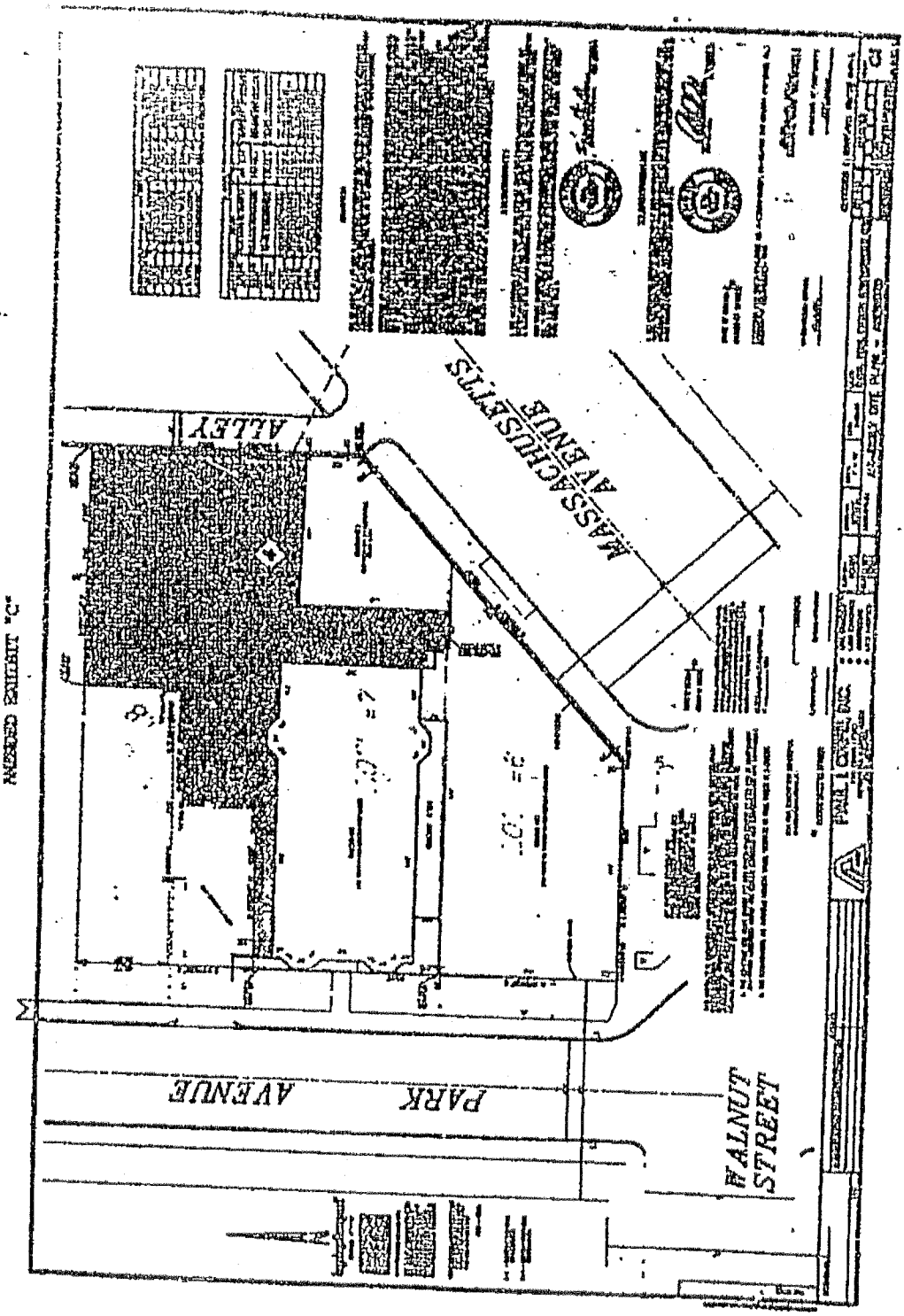
_____
Christina R. Smith, Notary

My Commission Expires: 6-9-95
My County of Residence: Marion

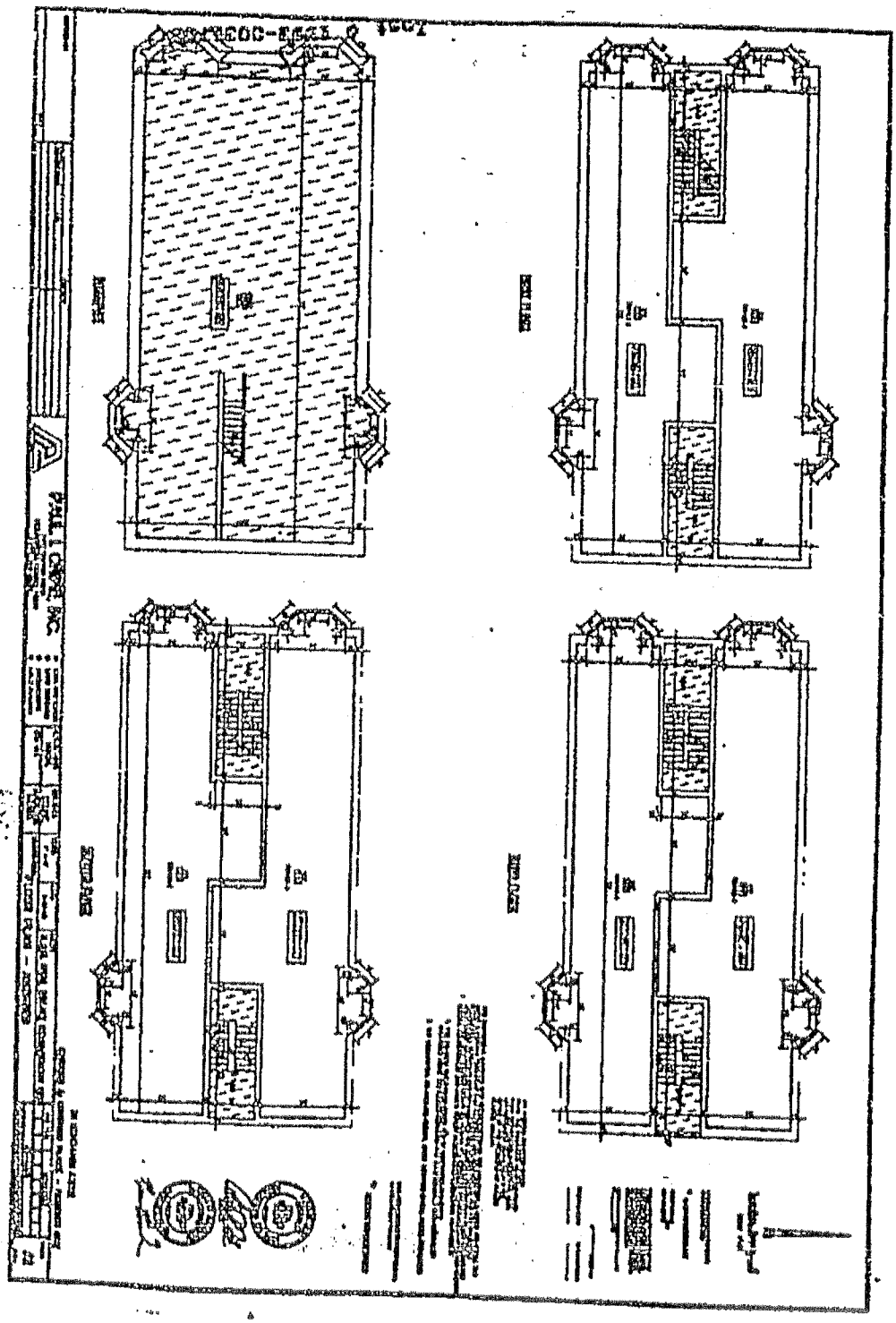
This instrument prepared by Stephen P. Hinkan, Attorney at Law, 36 South Pennsylvania Street, Suite 710, Indianapolis, Indiana 46204, (317) 633-4000.

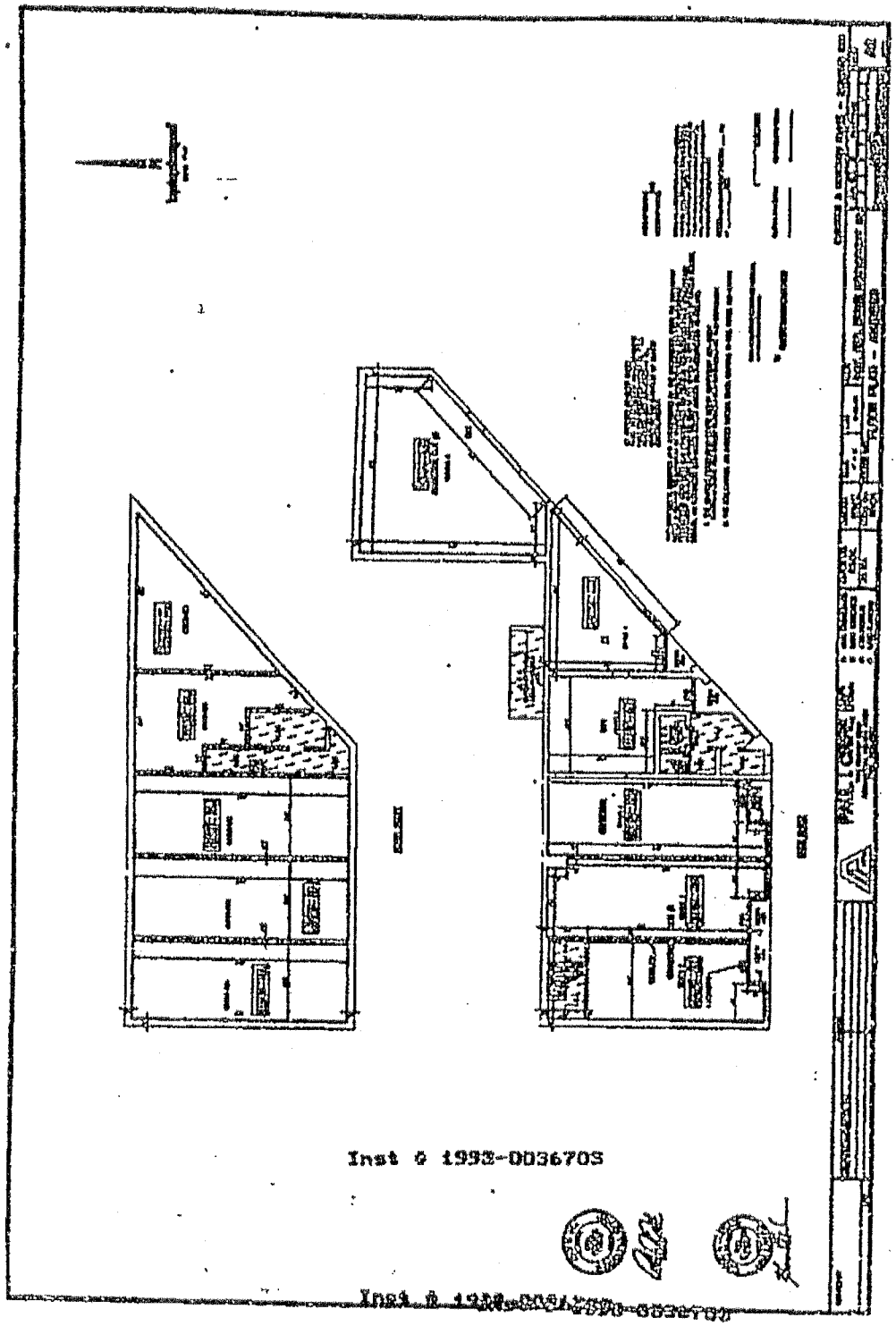
INST # 1993-0036703

Description: Marion,IN Document-Year.DocID 1993.36703 Page: 1 of 5
Order: Comm-3 Comment:




Description: Marion,IN Document-Year.DocID 1993.36703 Page: 2 of 5
Order: Comm-3 Comment:

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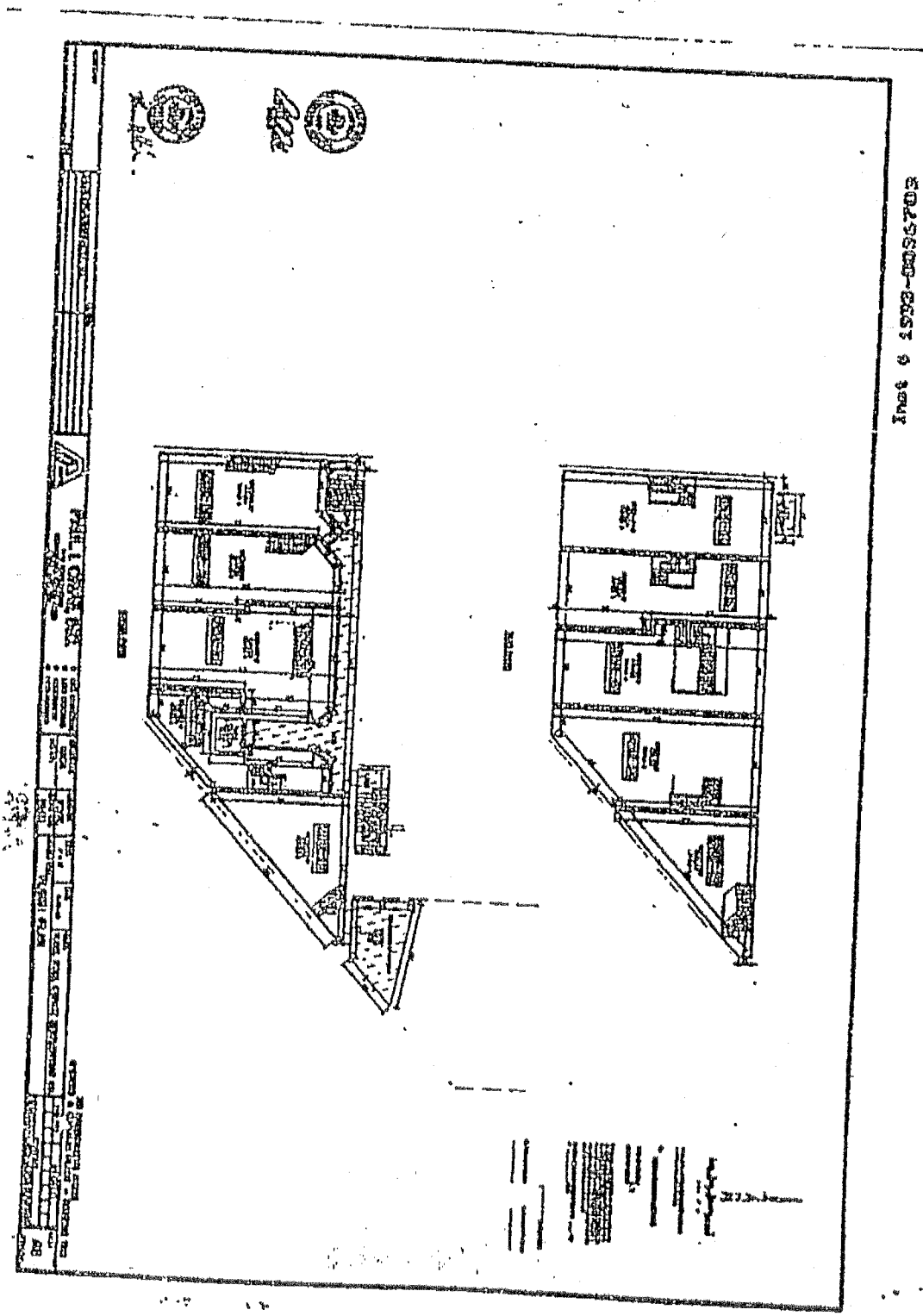
Inst # 1993-0036703

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**AMENDMENT TO THE DECLARATION**
**OF**
**HORIZONTAL PROPERTY REGIME**
**AND EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS**
**FOR THE**
**CLIFFORD AND CHATHAM PLACE CONDOMINIUM ASSOCIATION**
**FILED OF RECORD ON MARCH 23, 1993 AS INSTRUMENT NO. 93-33593**

The Declaration ("Declaration") of Horizontal Property Regime and Easements, Restrictions, Covenants and By-Laws for the Clifford and Chatham Place Condominium Association ("Association") was amended by the Board of Directors of the Association and by the Unit Owners (as defined in the Declaration) on September 27, 1995 in compliance with the terms and provisions of the Declaration:

1. Article III, Section 3.01 shall be amended as follows:

   "Except as otherwise provided herein, the Common Areas and Facilities shall consist of all portions of the Property, including the Limited Common Areas as more particularly described in Paragraph 3.04, except the Units, including but not necessarily limited to, the land, fences, outside walks and driveways, landscaping, parking areas, roofs, skylights, pipes, ducts, electrical wiring and conduits, all cable television equipment (excluding receivers and transmitters), public or central utility lines, and other utility insulation to the outlets, floors, ceilings, common hallway walls and perimeter walls of a Building not located within the boundaries of a Unit as shown on the Floor Plans, and structural parts of a Building, including bearing walls and structural columns, located within the boundaries of a Unit, but excluding garages and parking spaces purchased by certain residential dwelling Units (the garages and parking spaces hereinafter collectively referred to as "Garages")."

2. Article III, Section 3.04 shall be amended by deleting subsection (a) and (b) from Section 3.04 and redesignating current subsections "(c)", "(d)", "(e)", and "(f)" as subsections "(a)", "(b)", "(c)" and "(d)" respectively.

3. Article III, Section 3.05 shall be amended as follows:

   "3.05. Use of Limited Common Areas and Garages. The Limited Common Areas specifically described in paragraphs (a) through (d) of Section 3.04 and the Garages described in Section 3.01 shall be for the exclusive use and benefit of the Unit served thereby or assigned thereto or purchased by the Unit Owner thereof, subject to rules and regulations from time to time enacted by the Board, the By-Laws, the provisions of this Declaration, and the Act."

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Inst # 1996-0014943

Description: Marion,IN Document-Year.DocID 1996.14943 Page: 1 of 3
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4. Article IV, Section 4.02 shall be amended by adding the following at the end of such Section 4.02:

"Notwithstanding the foregoing, however, a Unit Owner may transfer any Garage owned by such Unit Owner to another Unit Owner (but not to any individual or entity not a Unit Owner) by deed, mortgage, lease or other instrument and such transfer shall not have any effect on Unit Ownership."

5. The first sentence in Article IV, Section 4.05(a) shall be amended to read as follows:

"(a) By the Board. Except as otherwise provided by this Declaration, the Association through the Board shall be responsible for the maintenance, repair, replacement, improvement and management of the Common Areas and Facilities and the Garages."

6. The first sentence in Article VII, Section 7.01(k) shall be amended to read as follows:

"No sign shall be erected or displayed in any Unit if it is visible from without such Unit without the prior written approval of the Board; except that owners of commercial Units may place signage in the respective windows of a nature and in a manner approved from time to time by owners of a majority of the commercial Units."

**IN WITNESS WHEREOF**, the undersigned officer of Clifford and Chatham Place Condominium Association has caused this Amendment to the Declaration to be executed this 27th day of September, 1995.

**CLIFFORD AND CHATHAM PLACE CONDOMINIUM ASSOCIATION**

By: Patricia Biddinger

Printed: PATRICIA C. BIDDINGER

Title: President Clifford-Chatham Place Condominium Association Board



Description: Marion,IN Document-Year.DocID 1996.14943 Page: 2 of 3
Order: Comm-3 Comment:

STATE OF INDIANA )
) SS:
COUNTY OF MARION )

Before me, a Notary Public, in and for said County and State, personally appeared Patricia E. Biddinger, the President of Clifford and Chatham Place Condominium Association, who acknowledged the execution of the foregoing document for and on behalf of the Corporation, and who, having been duly sworn, stated that the representations therein contained are true.

Witnesss my hand and Notarial Seal this 25th day of January, 1995.

My Commission Expires:

Gerald G. Dupree
Notary Public

February 22, 1997

Gerald G. Dupree
(Printed Name)

My County of Residence:

Marion County

This Instrument Prepared By:

Garry R. Stamm, Attorney-At-Law
KRIEG DeVAULT ALEXANDER & CAPEHART
2800 One Indiana Square
Indianapolis, IN 46204-2017
(317) 636-4341

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Description: Marion,IN Document-Year.DocID 1996.14943 Page: 3 of 3
Order: Comm-3 Comment:

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**AMENDMENT TO THE DECLARATION**
**OF**
**HORIZONTAL PROPERTY REGIME**
**FOR THE**
**CLIFFORD AND CHATHAM PLACE CONDOMINIUM ASSOCIATION**
**FILED OF RECORD ON MARCH 23, 1993 AS INSTRUMENT NO. 93-33593**

The Declaration ("Declaration") of Horizontal Property Regime and Easements, Restrictions, Covenants and By-Laws for the Clifford and Chatham Place Condominium Association ("Association") was amended by the Board of Directors of the Association and by the Unit Owners (as defined in the Declaration) on the 7th day of March, 2000 in compliance with the terms and provisions of the Declaration:

1. Article 6.01 shall be amended to delete therefrom the following sentence:

"Such accounting shall be prepared by a Certified Public Accountant."

This Amendment pertains to the following described real estate in Marion County, Indiana:

All of Lot 6, all of Lot 7, and part of Lot 8 in Out Lot 42 in John Wood's Subdivision of Out Lots 1, 41, and 42 of the Donation Lands of the City of Indianapolis as per plat thereof recorded in Land Record G, page 563, in the Office of the Recorder of Marion County, Indiana, described as follows:

Beginning at a point on the West line of said Lot 8 South 00 degrees 00 minutes 00 seconds East (bearing based on the centerline of Park Avenue as being North 00 degrees 00 minutes 00 seconds East) 47.37 feet from the Northwest corner of said Lot 8 (rebar with cap "P.I. Cripe Inc." set, hereafter designated as R.W. C.) to a point 1.37 feet North of the south line of Lot 8; thence South 89 degrees 45 minutes 49 seconds East parallel with the south line of Lot 8 a distance of 45.00 feet ("PK" nail set); thence perpendicular to said South line North 00 degrees 14 minutes 11 seconds East 20.00 feet ("PK nail set); thence South 89 degrees 45 minutes 49 seconds East 28.00 feet ("PK" nail set); thence

03/21/00 11:34AM NANDA MARTIN MARION CTY RECORDER MEM 14.00 PAGES: 3
Inst # 2000-0043793

Description: Marion,IN Document-Year.DocID 2000.43793 Page: 1 of 3
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North 45 degrees 14 minutes 11 seconds East 2.83 feet ("PK" nail set); thence North 00 degrees 14 minutes 11 seconds East 25.37 feet ("R.W.C." set) to the North line of the North half of said Lot 8; thence along said North line South 89 degrees 45 minutes 49 seconds East 64.81 feet to the Northeast corner of said Lot 8; thence along the East line of said Lot 8 and Lot 7 South 00 degrees 00 minutes 00 seconds East 71.76 feet to the East corner of Lot 7; thence along the Southeasterly line of Lot 7 and the east line of Lot 6 South 47 degrees 29 minutes 23 seconds West 109.79 feet to the Southeast corner of Lot 6; thence along the South line of Lot 6 North 89 degrees 41 minutes 55 seconds West 59.07 feet to the Southwest corner of Lot 6; thence along the West line of Lot 6, Lot 7, and part of Lot 8 North 00 degrees 00 minutes 00 seconds East 98.85 feet to the place of beginning.

**IN WITNESS WHEREOF**, the undersigned officer of Clifford and Chatham Place Condominium Association have caused this Amendment to the Declaration to be executed this 7th day of March, 2000.

**CLIFFORD AND CHATHAM PLACE CONDOMINIUM ASSOCIATION**

Ronald C. Smith, President

STATE OF INDIANA )
) SS:
COUNTY OF MARION )

Be it known that on the 7th day of March, 2000, before me, a Notary Public in and for the State of Indiana, personally appeared Ronald C. Smith, President, of the Clifford and Chatham Place Condominium Association, and executed the above and foregoing document, and who, having been duly sworn, stated that all of the facts therein set forth are true to the best of his knowledge, information and belief.

SUBSCRIBED and sworn to before me, a Notary Public in and for said County and State this 7th day of March, 2000.

Mary M. Chambers, Notary Public

County of Residence:

MARY M. CHAMBERS
Marion County
My Commission Expires
February 28, 2007

My Commission Expires:

_____

Prepared by:

Ronald C. Smith
STEWART & IRWIN, P.C.
251 E. Ohio Street, Suite 1100
Indianapolis, IN 46204

F:\DOC\CHATHAM\amendment to declaration 2.wpd

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**AMENDMENT TO THE DECLARATION**
**OF**
**HORIZONTAL PROPERTY REGIME**
**FOR THE**
**CLIFFORD AND CHATHAM PLACE CONDOMINIUM ASSOCIATION**
**FILED OF RECORD ON MARCH 23, 1993 AS INSTRUMENT NO. 93-33593**

The Declaration ("Declaration") of Horizontal Property Regime and Easements, Restrictions, Covenants and By-Laws for the Clifford and Chatham Place Condominium Association ("Association") was amended by the Board of Directors of the Association and by the Unit Owners (as defined in the Declaration) on April 28, 1999 in compliance with the terms and provisions of the Declaration:

1. Article 7, Section 7.01(n) shall be amended to delete from the first sentence the words "thirty (30) days." and in lieu thereof insert "one (1) year." The text of the revised section will read as follows:

"No residential dwelling Unit Owner shall be permitted to lease his or her Unit for a term less than one (1) year. A Unit Owner of a commercial facility Unit may lease or sub-lease all or any portion of the commercial facility for any permitted use. All such leases and sub-leases shall be in writing. All such lease or sub-lease agreements are subject in all respects to the provisions of this Declaration and any and all rules and regulations from time to time imposed by the Board with respect to the use and enjoyment of the Common Areas and Facilities and any failure by the lessee and/or sub-lessee to comply therewith shall be a default under the lease or sub-lease. Upon written request by the Board, a Unit Owner leasing or sub-leasing a Unit shall supply to the Board a true and correct copy of the lease agreement with respect thereto for a review as to compliance with this paragraph."

**IN WITNESS WHEREOF**, the undersigned officer of Clifford and Chatham Place Condominium Association have caused this Amendment tot he Declaration to be executed this 28th Day of April, 1999.

**CLIFFORD AND CHATHAM PLACE**
**CONDOMINIUM ASSOCIATION**

By: Robert A. Day

Printed: Robert A. Day

Title: Pres.

04/29/99 03:37PM NANDA MARTIN MARION CTY RECORDER MEM 12.00 PAGES: 2

Inst # 1999-0082807

Description: Marion,IN Document-Year.DocID 1999.82807 Page: 1 of 2
Order: Comm-3 Comment:

STATE OF INDIANA )
) SS:
COUNTY OF MARION )

Be it known that on the 28th day of April, 1999, before me, a Notary Public in and for the State of Indiana, personally appeared Robert A. Day, and executed the above and foregoing document, and who, having been duly sworn, stated that all of the facts therein set forth are true to the best of his knowledge, information and belief.

SUBSCRIBED and sworn to before me, a Notary Public in and for said County and State this 28th day of April, 1999.

Ronald C. Smith, Notary Public

County of Residence:

Marion

My Commission Expires:

10/21/08

Prepared by:

Ronald C. Smith
STEWART & IRWIN, P.C.
251 E. Ohio Street
Suite 1100
Indianapolis, IN 46204

Return document to: Mary F. Schmid, Stewart & Irwin, P.C., 251 E. Onio Street, Suite 1100, Indianapolis, IN 46204

CROSS REFERENCE

CROSS REFERENCE 900013174

CROSS REFERENCE

## ASSIGNMENT OF INTEREST IN PARKING EASEMENT

Comes now Shawn D. Miller, hereinafter referred to as the "Assignor", and comes now R. G. K. Real Estate Development Company, an Indiana General Partnership, hereinafter referred to as the "Assignee".

WHEREAS, Shawn Miller was the grantee pursuant to a Warranty Deed from John Charles Brown regarding the following described real estate: North Half of Lot 8 in the subdivision of Out Lot 42 of the Donation Lands of the town, now City of Indianapolis, made by John Wood, as per plat thereof, recorded in Deed Record G, page 561, in the office of the Recorder of Marion County, Indiana.

WHEREAS, John Charles Brown, in said Warranty Deed to Shawn D. Miller, excluded from granting to Shawn D. Miller and reserved unto himself and his successors and assigns the following

Permanent Easement: An easement for parking purposes the entire eastern portion of the Lot in between the North and South borders thereof, commencing on a line running parallel between said North and South boundaries three (3) feet East of the building located on the lot, which easement is currently paved for parking.

Said Warranty Deed was recorded in the Marion County Recorder's Office on or about May 27, 1988 as Instrument Number 88-51054.

WHEREAS, subsequent to executing said Warranty Deed, John C. Brown commenced litigation in the United States District Court for the Southern District of Indiana, Indianapolis Division, regarding, among other parcels of real estate, the real estate with the following legal description:

Lot 7 and the South half of Lot 8 in Out Lot 42 in John Woods Subdivision of Out Lots 1, 41, and 42 of the Donation Lands of the City of Indianapolis as per plat thereof, recorded in Land Record G, page 561, in the Office of the

Recorder of Marion County, Indiana.

WHEREAS, pursuant to said litigation in the United States District Court for the Southern District of Indiana, Indianapolis Division, the Court ordered a receiver appointed over the preceding described real estate and said real estate was subsequently sold to R. G. K. Real Estate Development Company, including all right, title and interest in all easements appurtenant thereto.

WHEREAS, there remains unresolved questions regarding certain oral representations that John Charles Brown allegedly made to Shawn D. Miller, and consequently the status of the Permanent Easement for parking between Shawn D. Miller and R. G. K. Real Estate Development Company.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties hereby agree as follows:

1. Shawn D. Miller, his successors and assigns, hereby assigns, quitclaims, and conveys whatever interest, if any, he may have in and to the following Permanent Easement for parking purposes to R. G. K. Real Estate Development Company:

> An easement for parking purposes the entire eastern portion of the Lot in between the North and South borders thereof, commencing on a line running parallel between said North and South boundaries three (3) feet East of the building located on the lot, which easement is currently paved for parking. The legal description of which is attached hereto and incorporated herein as Exhibit "B".

2. R. G. K. Real Estate Development Company, its successors and assigns, hereby grants to Shawn D. Miller space for two (2) parking stalls, each parking stall being ten feet in width by twenty feet long, together with access thereto for vehicular



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parking. The legal description of the two parking stalls and the access thereto is described in Exhibit A, attached hereto and incorporated herein.

3. R. G. K. Real Estate Development Company hereby agrees that it will not place a fence on its north property line separating the north half of Lot 8 from the south half of Lot 8.

4. This Agreement shall be binding upon the successors in interest of the parties hereto.

This Agreement is executed this 31st day of January, 1990.

R. G. K. Real Estate Development Company, an Indiana General Partnership

Shawn D. Miller

By: Richard F. Johnson, General Partner

By: Kevin M. Johnson, General Partner

By: Anita K. Johnson, General Partner



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STATE OF INDIANA )
COUNTY OF MARION ) SS:

Before me, a Notary Public, in and for said County and State, personally appeared Shawn D. Miller, who acknowledged the execution of the foregoing Assignment of Interest in Parking Easement, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 26 day of January, 1990.

MY COMMISSION EXPIRES: 2-17-93

MY COUNTY OF RESIDENCE: Hancock

[signature]
NOTARY PUBLIC

Alta Boroughs
PRINTED

STATE OF INDIANA )
COUNTY OF MARION ) SS:

Before me, a Notary Public, in and for said County and State, personally appeared Richard O. Johnson, Kevin R. Johnson, and Genita K. Johnson, who acknowledged the execution of the foregoing Assignment of Interest in Parking Easement, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 26th day of January, 1990.

MY COMMISSION EXPIRES: July 11, 1993

MY COUNTY OF RESIDENCE: Marion

[signature]
NOTARY PUBLIC

[signature]
PRINTED

This instrument prepared by Stephen P. Zinkan, Attorney at Law.



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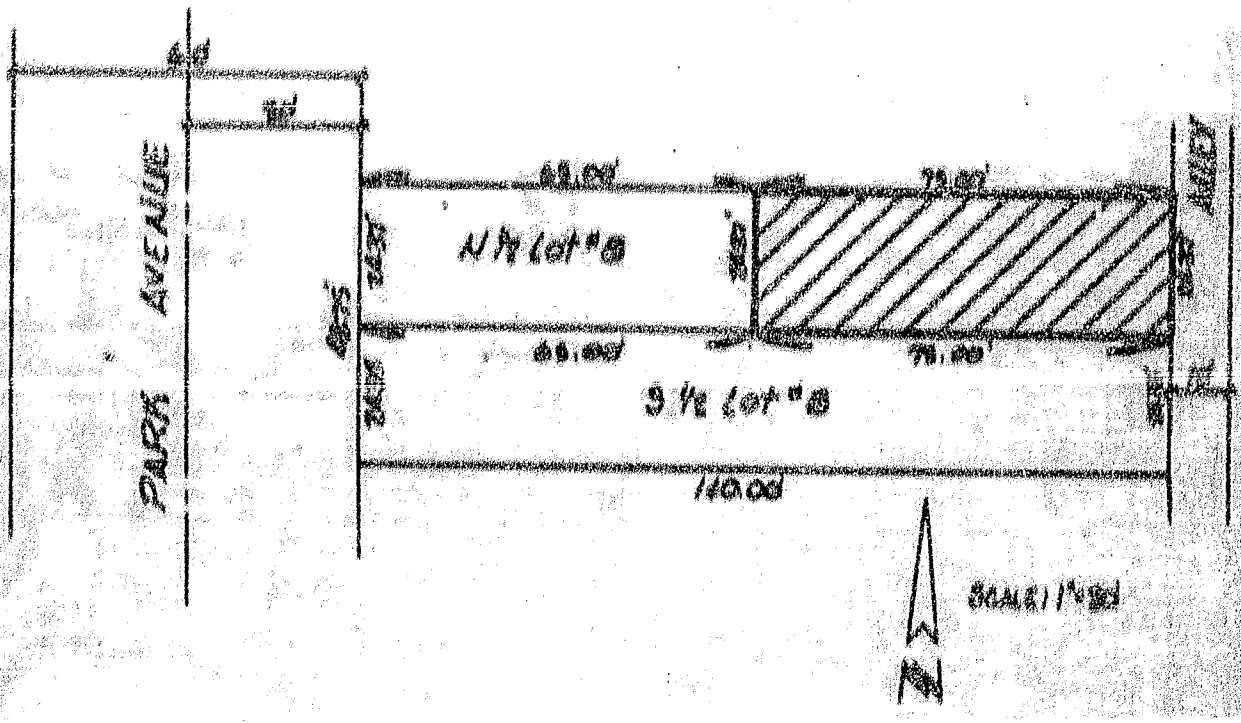
HALTCRAFT, INC. / 7172 Graham Road/Indianapolis, Indiana 46250/(317) 842-6777




PERMANENT EASEMENT DESCRIPTION
FOR PARKING PURPOSES

Part of the North Half of Lot #B in Outlot 42 in John Wood's Subdivision of Outlots 1, 41, and 42 of the Donation Lands of the City of Indianapolis as per plat thereof, recorded in Land Record D, page 563, in the Office of the Recorder of Marion County, Indiana, described as follows:

Beginning at a point on the North line of said Lot #B a distance of 65.00 feet East of the Northwest corner thereof; thence continuing East along said North line 75.00 feet to the East line of said Lot #B; thence along the said East line South 24.37 feet to the South line of said North Half of Lot #B; thence West along said South line 75.00 feet to a point 65.00 feet East of the West line of said Lot #B; thence North 24.37 feet to the place of beginning.

EXHIBIT B

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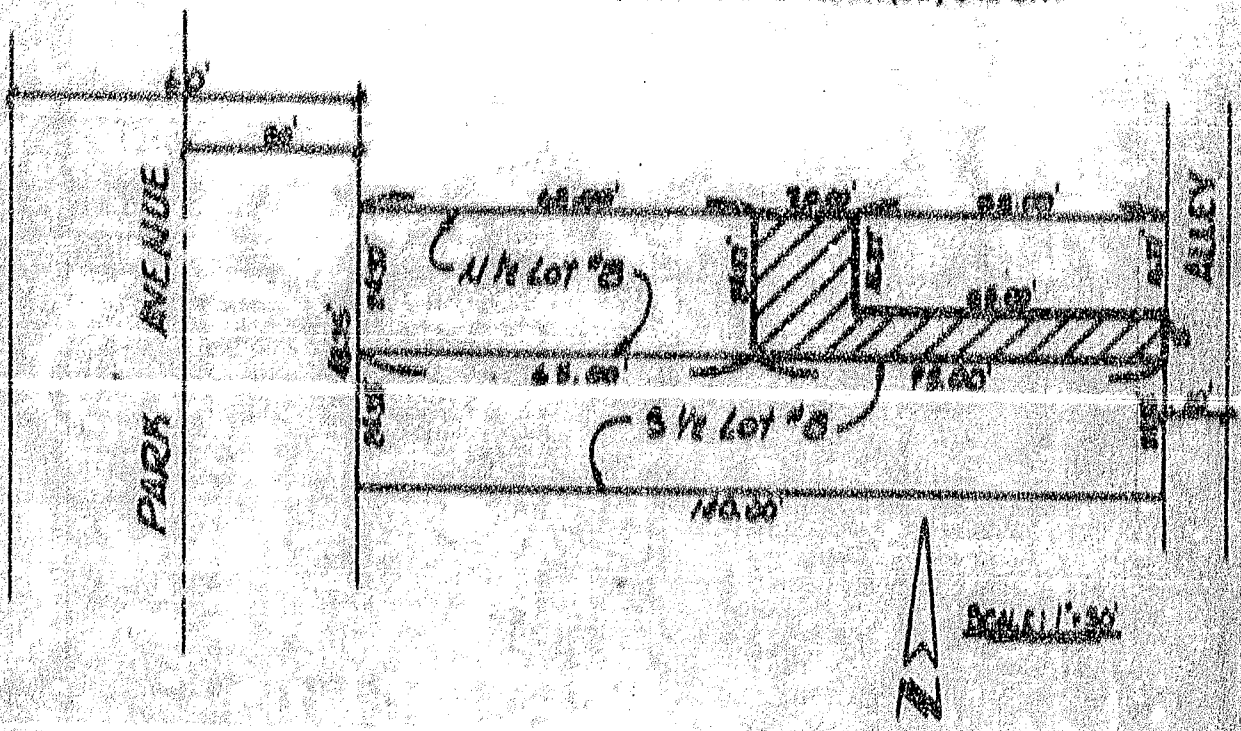
MILLER, INC. / 7172 Graham Road/Indianapolis, Indiana 46250/(317) 842-6777




**EASEMENT DESCRIPTION**
*For Two Parking Stalls*

Part of the North Half of Lot #29 in Outlot 42 in John Wood's Subdivision of Outlots 1, 41, and 42 of the Donation Lands of the City of Indianapolis as per plat thereof, recorded in Land Record C, page 363, in the Office of the Recorder of Marion County, Indiana, described as follows:

Beginning at a point on the North line of said Lot #29 a distance of 60.00 feet East of the Northwest corner thereof; thence continuing East along said North line 20.00 feet; thence South parallel with the West line of said Lot #29 a distance of 18.37 feet to a point 6.00 feet North of the South line of the North Half of said Lot #29; thence East parallel with said South line 55.00 feet to the East line of said Lot #29, said line also being the West line of an alley; thence South along said East line and West line of the alley 6.00 feet to the South line of said North Half of Lot #29; thence West along said South line 75.00 feet to a point 55.00 feet East of the West line of said Lot #29; thence North 24.37 feet to the place of beginning.

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EXHIBIT A