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DECLARATION OF HORIZONTAL PROPERTY REGIME

FOR

LINCOLN PLACE CONDOMINIUMS

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*monroe*  
*10/2/95*

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LINCOLN PLACE CONDOMINIUMS**

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**DECLARATION OF HORIZONTAL PROPERTY REGIME FOR  
LINCOLN PLACE CONDOMINIUMS**

THIS DECLARATION of Horizontal Property Regime for Lincoln Place Condominiums and the exhibits which are attached hereto and made a part hereof ("Declaration"), are made and executed this 25 day of September, 1995 by CFC, Inc., (the "Declarant"), for itself, its successors, grantees and assigns, pursuant to the provisions of the Indiana Horizontal Property Law.

**WITNESSETH:**

WHEREAS, the Declarant is the owner of certain real property in Monroe County, State of Indiana, more particularly described and defined in Exhibit A, which shall constitute the Lincoln Place Condominiums; and

WHEREAS, the Declarant is in the process of constructing certain condominium type multi-unit buildings and certain other improvements hereafter to be constructed upon the aforesaid property, and it is the desire and the intention of the Declarant to divide the project into "Condominium Units" or "Condominiums" as those terms are defined under the provisions of the Indiana Horizontal Property Law and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends, by the filing of this Declaration, to submit the Property described in Exhibit A and the multi-unit buildings located thereon and all other improvements constructed or to be constructed thereon, together with all appurtenances thereto, to the provisions of the Indiana Horizontal Property Law; and

NOW, THEREFORE, the Declarant by execution of this Declaration does hereby create a Horizontal Property Regime subject to the provisions of the Indiana Horizontal Property Law and the terms and conditions hereof and does hereby publish and declare that all of the Property described in Exhibit A (and as described in Article 4 below) is held and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division thereof into Condominium Units and shall be deemed to run with the land and shall be a burden and benefit to Declarant, its successors and assigns, and any person, firm, corporation or other entity acquiring and owning an interest in the Property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

## ARTICLE 1 DEFINITIONS

Certain terms as used in this Declaration and Exhibits attached hereto and made a part hereof shall be defined as follows, unless the context clearly indicates a meaning different:

- (A) "Act" shall mean the Horizontal Property Law of the State of Indiana, Acts 1963, Chapter 349, as amended from time to time. The Act is incorporated herein by reference.
- (B) "Homeowners Association" is as defined in the Act and shall mean all of the Unit Owners acting as a group in accordance with the Declaration and By-Laws.
- (C) "Board of Directors" shall mean the governing body of the Homeowners Association, elected pursuant to the By-Laws, and shall be synonymous with "Board of Directors" as used in the Act.
- (D) "Buildings" shall mean all structures erected or to be erected upon the Property.
- (E) "By-Laws" shall mean the by-laws, as amended from time to time, for the administration of the Property and the Homeowners Association, contained in Exhibit B.
- (F) "Common Areas and Facilities" shall have the meaning as set forth in the Act and as more fully described in Article 8.
- (G) "Common Expenses" shall mean and include:
  - (i) All sums which the Homeowners Association assesses against the Unit Owners;
  - (ii) Expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities;
  - (iii) Expenses which the Homeowners Association agrees upon as Common Expenses; and
  - (iv) Expenses declared to be Common Expenses in the provisions of the Act, or in this Declaration or the By-Laws.

(H) "Common Expense Fund" shall mean the separate accounts to be kept in accordance with the provisions of the By-Laws.

(I) "Common Interest" shall mean the aggregate of the undivided interest of the Unit Owners in the Common Areas and Facilities.

(J) "Condominium" shall mean the entire estate in the Property which the Owner owns, including an undivided interest in the Common Areas and Facilities in addition to an individual ownership interest in a Unit.

(K) "Condominium Documents" shall mean this Declaration and all of the Exhibits hereto as the same shall from time to time be amended. The Exhibits are as follows:

- Exhibit A -- Legal Description of the Property;
- Exhibit B -- By-Laws of the Homeowners Association;
- Exhibit C -- Plat;
- Exhibit D -- Floor Plans; and
- Exhibit E -- Unit Designations.

(L) "Owner" or "Unit Owner" shall mean a person, firm, corporation, limited liability company, partnership, association, trust or other legal entity, or any combination thereof, having an ownership of record for a Unit within the Property.

(M) "Limited Common Areas and Facilities" shall mean those parts of the Common Areas and Facilities reserved for the use of a certain Unit or Units to the exclusion of all other Units and more specifically described in Article 10 hereof.

(N) "Mortgage" shall mean a deed of trust as well as a mortgage.

(O) "Mortgagee" shall mean a beneficiary under or a holder of a deed of trust as well as a mortgagee.

(P) "Property" or "Condominium Property" shall mean the entire parcel of real property referred to in this Declaration to be divided into Condominiums (and more fully described in Exhibit A) including the land, the Buildings, all improvements and structures thereon, all owned in fee simple absolute, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for common use in connection therewith.

(Q) "Unit" shall mean "Condominium Unit" as defined in the Act and shall mean those parts of the Condominium Property, described in Article 6, which are the subject of

individual ownership. "Unit" shall include all appliances, fixtures, alterations, installations and additions of a permanent nature contained within the unfinished interior surfaces of the perimeter walls, floors and ceilings of each Unit but excluding bearing walls, floors and roofs that are integral parts of the Building, and pipes, wires, conduits or other utilities situated within easements appurtenant to the Building, all while contained within a Unit.

## **ARTICLE 2**

### **DECLARATION**

Declarant hereby expressly declares that the Property described herein shall be a Horizontal Property Regime in accordance with the provisions of the Act and this Declaration.

## **ARTICLE 3**

### **NAME OF THE CONDOMINIUM**

The name by which the Condominium Property shall be known is "Lincoln Place Condominiums."

## **ARTICLE 4**

### **GENERAL DESCRIPTION OF THE PROPERTY**

The Condominium Property consists of the real property described and identified on Exhibit A attached hereto and made a part hereof and the Buildings and other improvements erected and to be erected thereon and all articles of personal property intended for common use in connection therewith.

## **ARTICLE 5**

### **DESCRIPTION OF BUILDINGS**

Lincoln Place Condominiums will consist of eight (8) Units in three (3) multi-unit residential Buildings. The Units are designated 1 through 8 as shown on the Plat, a copy of which is attached as Exhibit C. Such Plat further shows the location of the Buildings on the Property described in Exhibit A.

The three (3) multi-unit Buildings are more particularly shown on the Floor Plans of the Buildings, a copy of which Floor Plans are attached as Exhibit D, showing all particulars of the Buildings, including the layout, number of stories, the location, ceiling and floor elevations, Unit numbers and dimensions of the Units. Such Floor Plans bear the verified statement of George S. Ridgway, certifying that the Floor Plans are actual copies of

portions of the plans of the Buildings as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings and that such plans fully and accurately depict the layout, location, unit numbers and dimensions of the Units as built.

## ARTICLE 6 DESCRIPTION OF UNITS

(A) The Unit designation of each Condominium Unit, approximate area, number of rooms and other data concerning its proper identification are set forth in Exhibit E. The percentage interests of each Unit in the Common Areas and Facilities owned as tenant-in-common with other Unit Owners shall be based upon the square footage of each Condominium Unit in relationship to the total square footage of all Units, both as shown on Exhibit E. The percentage interest appurtenant to each Unit is as specified on Exhibit E.

(B) Each Unit shall constitute a single freehold estate and shall consist of all of the space bounded by the undecorated and/or unfinished interior surfaces of its perimeter walls, load bearing walls, floors, ceilings, interior surface of the windows and window frames, doors and door frames.

Each Unit includes both portions of the Building within such boundaries and the space so encompassed, including, without limitation, appliances, fixtures, alterations, installations and additions of a permanent nature contained within the unfinished interior surfaces of the perimeter walls, floors and ceilings of each Unit but excluding bearing walls, floors and roofs that are integral parts of the Building, and pipes, wires, conduits or other utilities situated within easements appurtenant to the Building, all while contained within a Unit.

Each Unit includes the decorated surfaces, including paint, lacquer, varnish, wallpaper, paneling, tile, carpeting and any other finishing materials applied to interior walls, doors, floors and ceiling and interior surfaces of permanent walls, interior surfaces of interior walls, and interior doors.

## ARTICLE 7 ENCROACHMENTS

If any portion of the Common Areas and Facilities encroaches upon any Unit, or if any Unit encroaches upon any other Unit, or upon any portion of the Common Areas and Facilities, as a result of the construction of the Buildings, or if any such encroachment shall occur hereafter as a result of settling or shifting of the Buildings, a valid easement



shall exist for the encroachment and for the maintenance of same so long as the Buildings stand. If the Buildings, the Units, any adjoining Unit, or any adjoining Common Area or Facility shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachment of parts of the Common Areas and Facilities upon any Unit or any Unit upon any other Unit or upon any portion of the Common Areas and Facilities due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Buildings shall stand.

## ARTICLE 8 COMMON AREAS AND FACILITIES

The Common Areas and Facilities consist of all the Property other than the Units as described in Article 6 above, including, without limitation, the following (except such portions of the following, as may be included within an individual Unit):

- (A) The real property on which the Buildings are erected and all real property surrounding the Buildings as more fully described in Article 4 above;
- (B) All foundations, columns, girders, beams, supports and other structural members;
- (C) The yards, landscaping, fences, roads, driveways and exterior parking areas;
- (D) All roofs, attics and crawl spaces, exterior walls and interior walls including those partitioned walls wholly within a Unit;
- (E) All central and appurtenant installations for services such as power, lights, water, sewer, gas and television; and all tanks, pumps, motors, sewage grinders, fans, cables, antennas, conduits, compressors, flues and ducts, mechanical systems, storm drains, and all other items used in connection therewith, whether located in Common Areas or in Units, including gas lines, electric lines and water lines;
- (F) All exterior walkways not within Units;
- (G) Maintenance areas and recreational areas to the extent located now or subsequently within the Property; and
- (H) All other parts of the Property and all apparatus and installations including all items of personal property existing in the Buildings or upon the Property for common use or which are necessary or convenient to the existence, maintenance or safety of the Property.

**ARTICLE 9**  
**USE OF COMMON AREAS AND FACILITIES**

Each Unit Owner shall have the right to use the Common Areas and Facilities in accordance with the purposes for which they are intended and for all purposes incident to the use and occupancy of each Owner's Unit. Such right shall be appurtenant to and run with each Owner's Unit; provided, however, that no person shall use the Common Areas and Facilities or any part thereof in such manner as to interfere with or restrict or impede the use thereof by others entitled to the use thereof or in any manner contrary to or not in accordance with this Declaration, the By-Laws, and such rules and regulations as the Board of Directors may establish from time to time. Such rules and regulations may impose reasonable restrictions on the use of such Common Areas and Facilities.

**ARTICLE 10**  
**DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES**

Limited Common Areas and Facilities shall mean and include those Common Areas and Facilities reserved for use by a certain Unit or Units to the exclusion of other Units and shall mean all porches, decks, steps, patios, balconies and chimneys (including duct work and flues). References in this Declaration and the By-Laws to Common Areas and Facilities shall include Limited Common Areas and Facilities unless the context clearly indicates otherwise. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy the Limited Common Areas and Facilities associated with and/or assigned to such Owner's Unit.

**ARTICLE 11**  
**STATEMENT OF PURPOSES, USE AND RESTRICTIONS**

The Units, Common Areas and Facilities, and Limited Common Areas and Facilities shall be occupied and used as follows:

(A) There shall be no obstruction of the Common Areas and Facilities. Nothing may be stored in the Common Areas and Facilities, excluding the Limited Common Areas and Facilities located within the bounds of a Unit or pertaining to a Unit, without the prior written consent of the Board of Directors.

(B) Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance on the Common Areas and Facilities without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in each Owner's Unit or in the Common Areas and Facilities which would result in the cancellation of insurance on any Unit or any part of the Common Areas and

Facilities, or which would be in violation of any law. No waste will be committed of the Common Areas and Facilities.

(C) No sign of any kind shall be displayed to the public view from any Unit or from the Common Areas and Facilities without the prior written consent of the Board of Directors.

(D) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas and Facilities, except that dogs, cats or other usual household pets may be kept in Units, subject to rules and regulations which the Board of Directors adopts.

(E) 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 which will be an annoyance or nuisance to other Owners.

(F) Nothing shall be altered or constructed in or removed from the Common Areas and Facilities except upon the written consent of the Board of Directors and Declarant.

(G) The Board of Directors of the Homeowners Association is authorized to adopt rules for the use of the Common Areas and Facilities, said rules to be furnished in writing to the Owners. The Owners shall not violate the rules so adopted.

(H) Notwithstanding anything herein to the contrary, Declarant, and such persons it may select, shall have the right of ingress and egress over, upon and across the Common Areas and Facilities, the right to utilize one or more Condominium Units as a model or office, the right to erect signs upon the Property for the purpose of advertising availability of Units and similar uses, and the right to store materials on the Common Areas and Facilities and make such other use thereof as may reasonably be necessary incident to construction, development and sale of the Condominiums and operation of the Units and Common Areas and Facilities.

## **ARTICLE 12** **EASEMENTS**

(A) Each Unit Owner shall have an easement in common with the other Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Facilities located in any of the other Units and serving each Owner's Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Facilities serving such other Units and located in such Unit. The Board of Directors or its agents shall have the right of access to each Unit to inspect the same, to remove violations

therefrom and to maintain, repair or replace the Common Facilities contained therein or elsewhere in the Buildings.

The Board of Directors may hereafter grant easements (and shall grant such easements as permitted in this Article 12 or as the Declarant shall direct) for utility purposes for the benefit of the Property including the right to install, lay, maintain, repair, replace, and remove water lines, pipes, sewer lines, gas mains, telephone wires and equipment and electrical conduits, and wires over, under, along, and on any portion of the Common Areas; and each Unit Owner hereby grants the Board of Directors an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Unit Owner such instruments as may be necessary to effectuate the foregoing.

(B) The Board of Directors may hereafter grant cross easements for recreational, utility and access purposes for the benefit of the Property and the Unit Owners. All such cross recreational easements and cross easements for water and sewer and access purposes shall be subject to Declarant's approval as to the location, form, beneficiary, content and all other particulars.

### **ARTICLE 13** **PARTITIONING**

Neither the Common Areas and Facilities nor any individual Unit shall be divided nor shall any right to partition any Unit thereof exist. Nothing herein contained, however, shall be deemed to prevent ownership of a Unit by more than one (1) person, either as tenants-by-the-entirety, joint tenants with rights of survivorship, tenants-in-common, partnerships, corporations, limited liability companies, or in any other form law permits.

### **ARTICLE 14** **LIENS**

While the Property remains subject to this Declaration and the provisions of the Act, no liens of any nature shall arise or be created against the Property as a whole or the Common Areas and Facilities except with the unanimous consent in writing of all of the Condominium Unit Owners and the holders of first liens thereon, except for (a) such liens as may arise or be created against the several Units and their respective Common Interest under or in accordance with the provisions of the Act, and (b) the lien of any mortgage given by Declarant to secure financing for the construction of the Buildings and other improvements on the Property. Every agreement for the performance of labor, or the furnishing of materials to the Common Areas and Facilities, whether oral or in writing, must provide that it is subject to the provisions of this Declaration.

**ARTICLE 15**  
**NATURE OF INTEREST IN UNITS**

Every Unit, together with its undivided interest in the Common Areas and Facilities, shall for all purposes be, and it is hereby declared to be and to constitute a separate parcel of real property and the Owner thereof shall be entitled to the exclusive ownership and possession of each Owner's Unit subject only to the covenants, restrictions, easements, by-laws, rules, regulations, resolutions and decisions adopted pursuant hereto and as may be contained herein and in the accompanying By-Laws and in the minutes of the Board of Directors and the Homeowners Association. The percentage of undivided interest in the Common Areas and Facilities of each Unit shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

Each deed to a Unit is given with the condition that the grantee's percentage interest in the Common Areas and Facilities shall be divested pro tanto and vest in the grantees of other Units in accordance with the terms of this Declaration and Amended Declarations which may be recorded. In addition, the Declarant reserves the right of revocation which may be exercised to aid in accomplishing this purpose.

Each deed shall reserve to the Declarant the power to assign to Units percentage interests in the Common Areas and Facilities as set forth in any Declaration or Amended Declarations. The grantee's acceptance of a deed shall constitute the following on his part and on the part of all those claiming under him, including all mortgagees:

(A) A grant of an irrevocable power of attorney coupled with an interest to the Declarant, acting by and through his authorized personnel, his successors, assigns or designees, and each of them singly as attorney-in-fact, to shift the percentages of undivided ownership interest in the Common Areas and Facilities in accordance with the provisions of this Declaration and of Amended Declarations; and

(B) An agreement with and consent to the following:

(i) The percentage of undivided ownership interest in the Common Areas and Facilities of each Unit shall automatically shift and be reallocated as set forth in each recorded Amended Declaration.

(ii) Upon the recording of each Amended Declaration, the amount by which the percentage of undivided interest in the Common Areas and Facilities of each Unit is reduced shall thereby be released and divested by and from the Owner of the

Unit so affected and reallocated among other Owners of Units as set forth in the Amended Declaration;

(iii) The foregoing provisions of this Subsection are designed to accomplish a valid shifting in the percentages of ownership in the Common Areas and Facilities among the various Unit Owners. None of the provisions shall invalidate the other, but each shall be deemed supplementary to the other for accomplishing their respective goals.

## **ARTICLE 16**

### **TAXES**

Every Condominium Unit, together with its undivided Common Interest in the Common Areas and Facilities, shall constitute a separate parcel of real property and shall be separately assessed and taxed by each assessing unit for all types of taxes authorized by law. Each Unit Owner shall be liable solely for the amount of taxes against each Owner's individual Unit.

## **ARTICLE 17**

### **HOMEOWNERS ASSOCIATION**

(A) In order to provide for the maintenance, repair, replacement, administration and operation of the Property there shall be created an incorporated association to be known as "Lincoln Place Homeowners Association, Inc." Membership shall be composed of all of the Owners of the Units at Lincoln Place Condominiums. Each Owner of a Unit shall be a member of the incorporated association. Membership shall automatically terminate when a person ceases to be an Owner of record and will be transferred to the new Owner.

(B) The Lincoln Place Homeowners Association, Inc. shall be governed in accordance with and as prescribed by the attached By-Laws, as amended from time to time.

(C) Declarant, by this Declaration, and all Unit Owners, by the acceptance of their deeds, covenant and agree to be bound by the conditions, restrictions and obligations contained in the By-Laws and this Declaration, as amended from time to time.

(D) The duties and powers of the Homeowners Association shall be those set forth in this Declaration and the By-Laws, as amended from time to time, including the power and authority to make assessments as provided for in the By-Laws.

## ARTICLE 18 COMMON EXPENSES

Each Unit Owner shall be assessed, in proportion to each Owner's undivided interest, as set forth in Exhibit E as the same may be amended from time to time, for the expenses of administration, maintenance and repair of the Common Areas and Facilities and any other expense lawfully agreed upon; and shall pay any special assessment duly assessed by the Board of Directors, all in accordance with the By-Laws, this Declaration and the provisions of the Act.

## ARTICLE 19 INSURANCE

The Homeowners Association, through the Board of Directors, shall obtain and maintain at all times insurance of the type and kind in not less than the amounts provided in this Declaration and the By-Laws and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium properties similar in construction, design and use. Such insurance shall be governed by the following provisions:

(A) The Board of Directors shall have the authority to and shall obtain insurance policies upon the Condominium Property for the benefit of the Unit Owners and their Mortgagees as their interests may appear, and provision shall be made for the issuance of certificates of mortgagee endorsements to the Mortgagees of the Unit Owners and delivery of the certificates to Mortgagees within ten (10) days from their original issuance or the issuance of the renewals thereof. The originals of all such policies and the endorsements thereto shall be deposited with the Board of Directors, as insurance trustees, and certificates of insurance, together with proof of payment of premiums, shall be delivered to the Unit Owners at least ten (10) days prior to the expiration date with respect to the then current policies.

\* Each Unit Owner shall be solely responsible for loss or damage to the contents of his Unit, however caused (including, but not limited, to all floor, ceiling and wall coverings and fixtures, betterments and improvements) and his personal property stored elsewhere on the Property. The Homeowners Association shall have no liability to the Owner for loss or damage to the contents of any Unit. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary, including but not limited to personal liability insurance and casualty insurance upon his Unit, but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there

is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to the proration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

(B) The Board of Directors shall make every effort to secure insurance policies that will provide the following minimum coverages:

*What unit are prop insured for*


(i) Fire and Extended Coverage. The Buildings and all other improvements upon the land and all personal property included in the Common Areas and Facilities shall be insured in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors with the assistance of the insurance company providing coverage. The policies evidencing such coverage shall contain clauses providing for waiver of subrogation, the standard SMP Condominium Endorsement (Form MLB-29A, Ed. 12-72) (excepting the Waiver of Subrogation provision contained therein) and shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to all the insureds, including all Mortgagees of Units. Such coverage shall provide protection against:

(a) Loss or damage by fire or other hazards covered by a standard extended coverage endorsement, and

(b) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the Buildings, including but not limited to vandalism and malicious mischief. All such policies shall provide that adjustment of loss shall be made by the Board of Directors as insurance trustees.

(ii) Public Liability. The Board of Directors shall also obtain and maintain to the extent obtainable, public liability insurance in such limits as the Board of Directors may, from time to time, determine, covering each member of the Board of Directors, the managing agent, if any, and each Unit Owner with respect to each Owner's liability arising out of the ownership, maintenance, or repair of the Common Areas and Facilities. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Unit Owners as a group to a single Unit Owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the Unit Owners, such public liability insurance shall be in amounts not less than One Million Dollars (\$1,000,000) for claims for



 bodily injury and Fifty Thousand Dollars (\$50,000) for claims for property damage. Each Unit Owner, at each Owner's own expense, shall keep in force comprehensive personal liability insurance in such amounts as the Board of Directors shall from time to time determine, but in no case less than Five Hundred Thousand Dollars (\$500,000) for each occurrence.

(iii) Other. Such other insurance coverages, including workmen's compensation, as the Board of Directors shall determine from time to time to be desirable or required.

(C) Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors and charged to and collected from each Unit Owner as part of the Common Expenses or collected from the Unit Owner based on the percent of ownership as set forth in Exhibit E and shall be a lien on the Unit when paid by the Homeowners Association.

(D) The Board of Directors shall make every effort to secure insurance policies that will provide for the following:

(i) The master policy on the Property cannot be canceled, invalidated or suspended on account of the conduct of any one or more individual Owner.

(ii) The master policy on the Property cannot be canceled, invalidated or suspended on account of the conduct of any Officer or employee of the Board of Directors, or manager, without prior demand in writing that the Board of Directors or manager cure the defect.

(iii) Any "no other insurance" clause in the master policy on the Property does not exclude individual Owner's policies. The master policy on the Property shall be primary coverage and shall not be entitled to contribution against any casualty insurance which any individual Owner purchases.

(E) All insurance policies purchased by the Board of Directors shall be for the benefit of the Board of Directors and the Unit Owners and their Mortgagees as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Board as insurance trustee. The sole duty of the Board of Directors as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their Mortgagees in the following shares:

(i) With respect to proceeds on account of damage to Common Areas and

Facilities, an undivided share for each Unit Owner, such share being the same as each Unit Owner's undivided interest in the Common Areas and Facilities.

(ii) Proceeds on account of damage to Units shall be held in the following undivided shares:

(a) When the Building(s) is to be restored, for the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Board of Directors; or

(b) When the Building(s) is not to be restored, an undivided share for each Owner of a damaged Unit, in the proportion that their respective percentage interest in the Common Areas and Facilities bears to the percentage interest to all such affected Owners.

(iii) If a mortgage endorsement has been issued to a Unit, the share of the Unit Owner shall be held in trust for the Mortgagee and the Unit Owner as their interests may appear; provided that no Mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged Property shall be reconstructed or repaired.

## **ARTICLE 20**

### **DISTRIBUTION OF INSURANCE PROCEEDS**

Proceeds of insurance policies received by the Board of Directors as insurance trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(A) All expenses of the insurance trustee shall be first paid or provisions made therefor.

(B) In the event of damage to or destruction of the Building(s) and/or the Common Areas and Facilities as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Building(s) and/or the Common Areas and Facilities (including any damaged Unit, but not including any decoration or coverings for walls, ceilings, or floors, or other furniture, furnishings, fixtures or equipment in the Unit, unless the subject insurance policy covers a portion or all of such loss to the Unit, in which event the Board shall repair or replace such damaged property), and the Board of Directors shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost for such repair and restoration in excess of the insurance proceeds shall be paid by all Owners of Units directly affected by the damage in the same proportion that their respective percentage interest bears to the percentage interest of all such affected Owners.

A Unit shall be deemed to be affected if and only if such Unit is located within the Building in which the fire or other casualty occurs. If any Owner or Owners refuse or fail to make the required payments, the other Owners shall (or the Homeowners Association, if such other Owners fail) complete the restoration and pay the costs thereof, and the costs attributable to the Owner or Owners who refuse to make such payment at the time required by the Board of Directors shall become a lien on such defaulting Owner's Unit and may be foreclosed in the same manner as provided for the lien for Common Expenses.

Any reconstruction or repair shall be in accordance with the Floor Plans of the original Building(s) and/or Common Areas and Facilities, portions of which are attached to this Declaration as exhibits, or if not, then according to Floor Plans approved by the Board of Directors and Declarant if Declarant is the Owner of one (1) or more Units at such time.

## **ARTICLE 21**

### **MORTGAGE OR TRANSFER OF UNITS**

Any Owner may mortgage his Unit or any interest therein and execute a mortgage lien to a bank, mortgage banker, life insurance company or savings and loan association, or to any person or corporation including the Government of the United States or any agency thereof or to the State of Indiana or any subdivision thereof.

## **ARTICLE 22**

### **RIGHTS OF DECLARANT**

The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

- (A) To complete improvements indicated on Plats and Floor Plans filed with the Declaration; and
- (B) To use easements through the Common Elements for the purpose of making improvements within the Common Interest Community.

Notwithstanding anything contained in this Declaration, or in the By-Laws of any rules and regulations as may be adopted from time to time by the Board of Directors, the Declarant is irrevocably empowered to sell, lease, rent and/or mortgage Units and portions thereof to any purchaser, lessee or mortgagee approved by it in its sole discretion.

Declarant shall have the right to transact any business necessary to consummate sales or rentals of Units or portions thereof including, but not limited to, the right to maintain models, have signs, use the Common Areas and Facilities and show Units. The sales office, signs, and all items pertaining to sales shall not be considered Common Areas and Facilities, and shall remain the property of Declarant.

Declarant retains the right to be the Owner of any unsold Units or parcels. Declarant, for such time as it continues to be a Unit Owner, shall only be required to contribute such sums to the Common Expenses of the Condominium, in addition to the total of the monthly Common Expenses assessment paid by all other Unit Owners, as may be required for the Homeowners Association to maintain the Condominium, as provided in this Declaration and exhibits attached hereto; provided, however, in no event shall Declarant be required to contribute to the Common Expenses as to Units owned by it in an amount exceeding the amounts which would have been duly assessed by the Board for similar Units had they been sold to bona fide purchasers other than Declarant.

**ARTICLE 23**  
**UNITS SUBJECT TO**  
**DECLARATION, BY-LAWS, RULES AND REGULATIONS**

All present and future Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and any rules and regulations as may be adopted in accordance with the By-Laws, and as the Declaration, By-Laws, rules and regulations may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, By-Laws and any rules and regulations which may be adopted are accepted and ratified by such Owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit as though such provisions were made a part of each and every deed of conveyance or lease.

**ARTICLE 24**  
**PERSONAL PROPERTY**

The Board of Directors may acquire and hold, for the benefit of the Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in such personal property shall be held by the Owners in the same proportion as their respective undivided interests in the Common Areas and Facilities and shall not be transferable except with a transfer of a Unit. A transfer of a Unit shall vest in the transferee ownership of the transferor's beneficial interest in such personal

property. At the time when the first conveyance of a Unit is made by Declarant to Owner(s), Declarant shall execute and deliver a bill of sale to the Board of Directors, transferring title to all items of personal property located on the Property and furnished by Declarant, which personal property is intended for the common use and enjoyment of Owners.

## ARTICLE 25 INTERPRETATION

The provisions of this Declaration and the By-Laws shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium property.

## ARTICLE 26 AMENDMENT TO DECLARATION

(A) This Declaration may be amended by the vote of at least seventy-five percent (75%) in Common Interest of the Owners of the Units, cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws. Such amendment shall become effective upon recordation in the Office of the Recorder of Monroe County, Indiana of a written instrument duly executed and acknowledged by Unit Owners holding seventy-five percent (75%) in Common Interest of the Condominium.

(B) Notwithstanding anything herein to the contrary, until Declarant has sold all Units subject to this Declaration, no amendment to this Declaration shall be effective unless Declarant approves it in writing. During this period, Declarant reserves the right to change the interior design and arrangement of any unsold Units, to alter the boundaries between unsold Units, and to add such additional Common Facilities or recreational facilities as it may deem desirable without amendment of this Declaration in the manner herein set forth.

If Declarant shall make any changes in Units, as provided in this Subparagraph (B), such changes shall be reflected by an amendment of this Declaration with Floor Plans attached, reflecting such authorized alteration of Units. Only the Declarant need execute and acknowledge the amendment. The Floor Plans shall be certified in the manner which the Act requires. If more than one (1) Unit is concerned, the Declarant shall reapportion between the Units the shares in the Common Areas and Facilities appurtenant to the Units concerned, together with reapportioning the Common Expenses and Common Profits of the Units concerned, and such share of the Common Areas and Facilities, Common Expenses and Common Profits shall be duly noted in the amendment of this Declaration.

## **ARTICLE 27** **ENFORCEMENT**

Each Unit Owner shall comply strictly with the provisions of this Declaration, the By-Laws, and the rules, regulations and decisions issued pursuant thereto and as the same may be lawfully amended from time to time. Failure to do so shall be grounds for an action to recover sums due for damages, injunctive relief, or both, maintainable by the Board of Directors on behalf of the Homeowners Association or, in a proper case, by an aggrieved Owner.

## **ARTICLE 28** **FLOOR PLAN**

The Floor Plans setting forth the layout, location, identification number, Building designation and dimensions for all Units and the Property are incorporated into this Declaration by reference. Such Floor Plans, attached as Exhibit D, have been filed in the Office of the Recorder of Monroe County, Indiana.

## **ARTICLE 29** **MORTGAGEE PROTECTION**

This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain security interests. This Article is supplemental to, not a substitution for, other provisions of the Condominium Documents, but in the case of conflict, this Article shall control.

### **(A) Mortgagee Rights.**

(i) **Prior Approval Required.** Notwithstanding anything in this Declaration to the contrary, the prior written approval of all institutional mortgagees must be obtained for the voluntary termination of the Condominium. In addition, except as specifically provided to the contrary in this Declaration, the prior written approval of an institutional mortgagee must be obtained as to any change in the undivided share in the common elements appurtenant to any Unit on which it holds the mortgage.

(ii) **Lien Subordinate.** The lien for delinquent and unpaid assessments described in this Declaration shall be subordinate to the lien of any first mortgage made or guaranteed by the United States Government or any instrumentality thereof, including Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), Federal Home Loan Mortgage Corporation,

Department of Housing and Urban Development, Veterans Administration, or any Municipal Bonding Authority.

(iii) Right to Notices. If an institutional mortgagee shall furnish the Homeowners Association written notice stating that it holds a mortgage on a Unit, describing the mortgage by reference to its recording information and giving an address to where any notice should be sent, the Homeowners Association shall furnish notice to such institutional mortgagee of:

- (a) Delinquent Assessments. Any default in the payment of assessments not cured within thirty (30) days.
- (b) Losses. Any condemnation loss or casualty loss which affects a material portion of the Condominium.
- (c) Insurance. Any lapse, cancellation or material alteration, other than an even substitution, in any insurance or fidelity bond required to be carried by the Homeowners Association.
- (d) Proposed Action. Any proposed action which would require the consent of a percentage of mortgage holders.

Until notice is given to the Homeowners Association, however, the institutional mortgagee shall not be entitled to notice of default, nor to any right, distribution or notice pursuant to this Declaration.

(iv) Right to Inspect. Each institutional mortgagee shall have the right to inspect the books and records of the Homeowners Association and to require reports necessary to ascertain the financial status of the Condominium and any Unit upon which it holds a mortgage.

(v) Amendment of Article. The terms and provisions of this Article shall not be amended unless there is an affirmative approval of the amendment by all of the following:

- (a) Voting Members. Seventy-five percent (75 %) of the voting members of the Homeowners Association.
- (b) Institutional Mortgagees. Sixty-seven percent (67 %) of all institutional mortgagees holding a first mortgage on Units in the Condominium.

(vi) Assessments. Any first mortgagee on a loan made or guaranteed by the United States Government or any instrumentality thereof, including Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), Federal Home Loan Mortgage Corporation, Department of Housing and Urban Development, Veterans Administration, or any Municipal Bonding Authority who takes title of a Unit in the Condominium by foreclosure or deed in lieu of foreclosure shall not be liable for assessments against the Unit that accrue before title is so obtained, except as the assessments may be reallocated to all Units as a Common Expense.

(vii) Reserve Fund. The Association shall purchase and maintain policies of insurance and fidelity bond coverage in accordance with requirements under the FNMA Lending Guide, Chapter Three, Part 5, Insurance Requirements.

(viii) Insurance. As used herein, the terms "institutional mortgage" or "lender" shall be deemed to include the Federal National Mortgage Association, the Federal Housing Authority and the Veterans Administration, as applicable.

**(B) Federal National Mortgage Association Requirements.**

(i) The Homeowners Association shall allow all Unit Owners, their lenders, insurers and guarantors of first mortgages to inspect, during normal business hours, all of the records of the Homeowners Association.

(ii) Upon written request, the Homeowners Association shall furnish its most recent annual statement to any holder of a first mortgage of a Unit in the Condominium.

(iii) The Homeowners Association may cancel, without penalty or cause, any contract or lease made by it before any Unit Owner other than the Declarant assumes control of the Homeowners Association, upon ninety (90) days' written notice to the other party.

(iv) Declarant shall surrender control of the Homeowners Association at the earlier of the time required or one hundred twenty (120) days after seventy-five percent (75%) of the Units in the Condominium, have been conveyed by the Declarant, or three (3) years after the conveyance of the first Unit in the Condominium.

(v) The Homeowners Association shall maintain an adequate reserve fund for the maintenance and repair of the Common Areas and Facilities which shall be funded



from regularly monthly assessments for Common Expenses.

(vi) Upon written request, the Homeowners Association shall furnish notice to the holder, insurer, or guarantor of any mortgage on any Unit in the Condominium of:

(a) Losses. Condemnation or casualty loss that affects a material portion of the Condominium Property or the applicable Unit;

(b) Delinquent Assessments. Delinquency in the payment of assessments more than sixty (60) days past due as to the applicable Unit;

(c) Insurance. Lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Homeowners Association; and

(d) Proposed Action. Proposed action which would require the consent of a percentage of mortgage holders.

(vii) The Association shall purchase and maintain policies of insurance and fidelity bond coverage in accordance with requirements under the FNMA Lending Guide, Chapter Three, Part 5, Insurance Requirements.

(viii) As used herein, the terms "institutional mortgage" or "lender" shall be deemed to include the Federal National Mortgage Association, the Federal Housing Authority and the Veterans Administration, as applicable.

(C) Mortgagee Protection.

(i) Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of eligible mortgagees is required, it shall mean that the approval or consent of eligible mortgagees holding security interests in Units which in the aggregate have allocated to them that specified percentage of votes as compared to the total votes allocated to all Units in the Homeowners Association then subject to security interests held by all eligible mortgagees.

(ii) Notice of Actions. The Homeowners Association shall give prompt written notice to each eligible mortgagee and eligible insurer of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Unit in which there is

a first security interest held, insured or guaranteed by that eligible mortgagee or eligible insurer, as applicable;

(b) Any delinquency in the payment of Common Expenses owed by a Unit Owner which remains uncured for a period of sixty (60) days and whose Unit is subject to a first security interest held, insured or guaranteed by that eligible mortgagee or eligible insurer, as applicable;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Homeowners Association;

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgagees; and

(e) Any judgment rendered against the Homeowners Association.

(iii) Consent and Notice.

(a) Document Changes. Notwithstanding any requirement permitted by this Declaration or the Act, no amendment of any material provision of the Condominium Documents by the Homeowners Association or Unit Owners described in this Article may be effective without notice to all eligible mortgagees and eligible insurers, as required by Section (C)(ii) above, without the vote of at least sixty-seven percent (67%) of the Unit Owners (or any greater Unit Owner vote required in this Declaration or the Act) and without approval by at least sixty-seven percent (67%) of the eligible mortgagees (or any greater eligible mortgagee approval required by this Declaration). The foregoing approval requirements do not apply to amendments affected by the exercise of any development right. A change to any of the following would be considered material:

(i) Voting rights;

(ii) Assessments, assessment liens or priority of assessment liens;

(iii) Reserves for maintenance, repair and replacement of Common Areas and Facilities;

(iv) Responsibility for maintenance and repairs;

- (v) Reallocation of interests in the Common Areas and Facilities except that when Limited Common Areas and Facilities are reallocated by agreement between Unit Owners, only those Unit Owners and only the eligible mortgagees holding security interests in those Units need approve the action;
  - (vi) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, or a Unit is being subdivided, then only those Unit Owners and the eligible mortgagees holding security interests in the Unit or Units need approve the action;
  - (vii) Convertability of Units into Common Areas and Facilities or Common Areas and Facilities into Units;
  - (viii) Expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;
  - (ix) Insurance or fidelity bonds;
  - (x) Leasing of Units;
  - (xi) Imposition of any restrictions on Unit Owners' right to sell or transfer their Units;
  - (xii) A decision by the Homeowners Association to establish self-management when professional management had been required previously by the Documents or any eligible mortgagee;
  - (xiii) Restoration or repair of the project after hazard damage or partial condemnation in a manner other than that specified in the Condominium Documents;
  - (xiv) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
  - (xv) Any provision that expressly benefits mortgage holders, insurers or guarantors.
- (b) Actions. Notwithstanding any lower requirement permitted by this

Declaration or the Act, the Homeowners Association may not take any of the following actions, other than rights reserved to the Declarant as special declarant rights, without notice to all eligible mortgagees and eligible insurers, as required by Section (C)(ii) above, and approval of at least sixty-seven percent (67%) (or the indicated percentage, if higher) of the eligible mortgagees:

- (i) The conveyance or encumbrance of the Common Areas and Facilities or any portion of the Common Areas and Facilities for which an eighty percent (80%) eligible mortgagee approval is required. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities by the Common Interest Community will not be deemed a transfer within the meaning of this clause.)
- (ii) The termination of the Common Interest Community for reasons other than substantial destruction or condemnation, for which sixty-seven percent (67%) of the votes of eligible mortgagees is required.
- (iii) The alteration of any partition or creation of any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), for which only the Owners of Units affected and eligible mortgagees of those Units need approve the action.
- (iv) The granting of any easements, leases, licenses or concessions through or over the Common Areas and Facilities (excluding, however, any utility easements serving or to serve the Common Interest Community and also excluding any leases, licenses or concessions lasting for no more than one (1) year).
- (v) The restoration or repair of the Property after hazard damage or a partial condemnation in a manner other than specified in the Condominium Documents.
- (vi) The merger of the Common Interest Community with any other common interest community.
- (vii) The assignment of the future income of the Homeowners Association, including its right to receive Common Expense assessments.

(viii) Any action taken not to repair or replace the Property in the event of substantial destruction of any part of a Unit or the Common Areas and Facilities.

(c) The Homeowners Association may not change the period for collection of regularly budgeted Common Expense assessments to other than monthly collection without the consent of all eligible mortgagees.

(d) The failure of an eligible mortgagee or insurer to respond within thirty (30) days to any written request for approval of an addition or amendment to a document wherever eligible mortgagee or insurer approval is required, when such request is delivered by certified or registered mail, return receipt requested, shall constitute an implied approval of the addition or amendment.

(D) Development Rights. The Declarant may not exercise, voluntarily abandon or terminate any development rights unless all persons holding security interests in the development rights consent to the exercise, abandonment or termination.

### **ARTICLE 30** **ASSESSMENT AND COLLECTION OF COMMON EXPENSES**

(A) Apportionment of Common Expenses. Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Areas and Facilities as shown in this Declaration. All Units shall be allocated full assessments, no later than sixty (60) days after the first Unit is conveyed.

(B) Common Expenses Attributable to Fewer than All Units.

(i) Any Common Expense associated with the maintenance, repair or replacement of components and elements attached to, planted on, or a part of yards, patios, decks, exterior surfaces, trim, siding, doors, windows and elevators shall be assessed against the Unit or Units to which the Limited Common Element is assigned. If any such Limited Common Element is assigned to more than one (1) Unit, the Common Expenses attributable to the Limited Common Element shall be assessed equally among the Units to which it is assigned.

(ii) Any Common Expense for services provided by the Homeowners Association to an individual Unit at the request of the Unit Owner shall be assessed against that Unit.

(iii) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction of the Unit shall be assessed against that Unit.

(iv) An assessment to pay a judgment against the Homeowners Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expense liabilities.

(v) If a Common Expense is caused by the misconduct of a Unit Owner, the Homeowners Association may assess that expense exclusively against that Unit Owner.

(vi) Fees, charges, late charges, collection costs and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.

(C) Liens.

(i) The Homeowners Association has a lien on a Unit for an assessment levied against the Unit or imposed against its Unit Owner from the time the assessment becomes due. Fees, charges, late charges, and interest charged pursuant to the Act and the Documents are enforceable as assessments under this Article. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due.

(ii) A lien under this Article is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first security interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Article is also prior to all security interests described in this Subparagraph to the extent that the Common Expense assessments are based on the periodic budget adopted by the Homeowners Association pursuant to this Article and would have become due in the absence of acceleration, during the six (6) months immediately preceding institution of an action to enforce either the Homeowners Association's lien or a security interest described in this Subparagraph. This Subparagraph does not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Homeowners Association. A lien under this Article is not subject to the provision for exemptions under the laws of the State of Indiana.

A lien for Common Expense assessments is not affected by the sale or transfer of

the Unit unless a foreclosure of a first mortgage is involved. The foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but will not relieve any subsequent Unit Owner from paying further assessments.

(iii) Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for assessment under this Article is not required.

(iv) A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessment becomes due, except that if an Owner of a Unit subject to a lien under this Article files a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Homeowners Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(v) This Article does not prohibit an action to recover sums for which Subparagraph (C)(i) of this Article creates a lien or prohibit the Homeowners Association from taking a deed in lieu of foreclosure.

(vi) A judgment or decree in any action brought under this Article shall include costs and reasonable attorney's fees for the prevailing party.

(vii) A judgment or decree in an action brought under this Article is enforceable by execution under state statute on judgment executions.

(viii) The Homeowners Association's lien must be foreclosed by the same procedure by which a mortgage or deed of trust on real estate is foreclosed, or as a lien is foreclosed.

(ix) In any action by the Homeowners Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver for the Unit Owner to collect all sums alleged to be due from that Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Homeowners Association during the pendency of the action to the extent of the Homeowners Association's Common Expense assessments, based on a periodic budget adopted by the Homeowners Association pursuant to this Declaration.

(x) If a holder of a first or second security interest in a Unit forecloses that

security interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that Unit which became due before the sale. Any unpaid assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

(xi) In the case of foreclosure, the Homeowners Association shall give reasonable notice of its action to each lien holder of a Unit whose interest would be affected.

(xii) Any payments received by the Homeowners Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

(D) Budget Adoption and Ratification. Within thirty (30) days after adoption of a proposed budget for the Common Interest Community, the Board of Directors shall provide a summary of the budget to each Unit Owner and shall set a date for a meeting of the Unit Owners to consider ratification of the budget. The meeting shall be not less than fourteen (14) or more than thirty (30) days after mailing of the notice of the meeting. Unless at that meeting a majority of all Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a new budget proposed by the Board of Directors.

(E) Ratification of Unbudgeted Common Expense Assessments. If the Board of Directors votes to levy a Common Expense assessment, not included in the current budget, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Board of Directors shall submit this Common Expense to the Unit Owners for ratification in the same manner as a budget.

(F) Certificate of Payment of Common Expense Assessments. The Homeowners Association, upon written request, shall furnish a Unit Owner with a statement, in recordable form, setting out the amount of unpaid assessments against the Unit. The statement must be furnished within ten (10) business days after receipt of the request and is binding on the Homeowners Association, the Board of Directors and each Unit Owner.

(G) Monthly Payment of Common Expenses. All Common Expenses assessed under this Declaration shall be due and payable monthly.

(H) Acceleration of Common Expense Assessments. If any Unit Owner does not make the payment of any Common Expense assessment levied against his Unit within ten (10) days of the date due, the Board of Directors shall have the right, after notice and hearing, to declare all unpaid assessments for the pertinent fiscal year immediately due and payable.



(I) Commencement of Common Expense Assessments. Common Expense assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs.

(J) No Waiver of Liability for Common Expenses. No Unit Owner may become exempt from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

(K) Personal Liability of Unit Owners. The Unit Owner of a Unit, at the time a Common Expense assessment or portion of the assessment is due and payable, is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Unit unless the successor agrees to assume the obligation.

### ARTICLE 31 RIGHT TO ASSIGN FUTURE INCOME

The Homeowners Association may assign its future income, including its right to receive Common Expense assessments, only with the affirmative vote of at least fifty-one percent (51 %) of the Units, and with the eligible mortgagee consent of at least sixty-seven percent (67 %) of the mortgagees.

### ARTICLE 32 PERSONS AND UNITS SUBJECT TO DOCUMENTS

(A) Compliance with Documents. All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by that Unit Owner, tenant, mortgagee or occupant. All provisions recorded on the land records of Monroe County, Indiana are covenants running with the land and shall bind any Persons having at any time any interest or estate in any Unit.

(B) Adoption of Rules. The Board of Directors may adopt Rules regarding the use and occupancy of Units affecting the Common Areas and Facilities and the activities of occupants.

### ARTICLE 33 INVALIDITY

The invalidity of any provision of this Declaration shall not be deemed to impair or affect

in any manner the validity and enforceability or effect of the remainder of this Declaration, and in such event, all the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

**ARTICLE 34**  
**WAIVER**

No provisions contained in this 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.

**ARTICLE 35**  
**CAPTIONS**

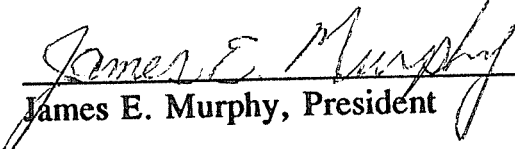
The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provisions hereof.

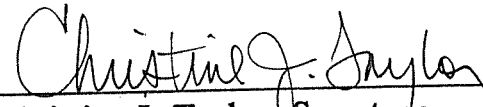
**ARTICLE 36**  
**LAW CONTROLLING**

This Declaration and the By-Laws attached hereto shall be construed and controlled by and under the laws of the State of Indiana.

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

CFC, Inc.

  
\_\_\_\_\_  
James E. Murphy, President

  
\_\_\_\_\_  
Christine J. Taylor, Secretary

STATE OF INDIANA     )  
                                      )  
COUNTY OF MONROE    )

Before me, a Notary Public in and for said County and State, personally appeared CFC, Inc., by James E. Murphy, its President, and Christine J. Taylor, its Secretary, by me known, who acknowledged the execution of the above and foregoing Declaration for and on behalf of CFC, Inc.

WITNESS my hand and Notarial Seal this 25<sup>th</sup> day of September, 1995.

My Commission Expires:

June 2, 1998



Notary Public

Printed Name Theodore J. Ferguson

Residing in Monroe County, Indiana

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## **EXHIBIT "A"**

### **LEGAL DESCRIPTION OF THE PROPERTY**

Lots Numbered 337 and 338 in the original plan of the City of Bloomington, Monroe County, Indiana bounded and described as follows: Beginning at an iron pin (set this survey) at the intersection of the North line of Seventh Street with the East Line of Lincoln Street; thence North (basis of bearings) along the East line of Lincoln Street 132.00 feet to an iron pin (set this survey); thence South 89 degrees 38 minutes 45 seconds East (City plat calls this line East), 132.00 feet to an iron pin (set this survey); thence South 132.00 feet along the West line of the platted alley to an iron pin (set this survey); thence North 89 degrees 38 minutes 45 seconds West (City plat calls this line West), 132.00 feet along the North line of Seventh Street to the point of beginning.

**EXHIBIT "B"**

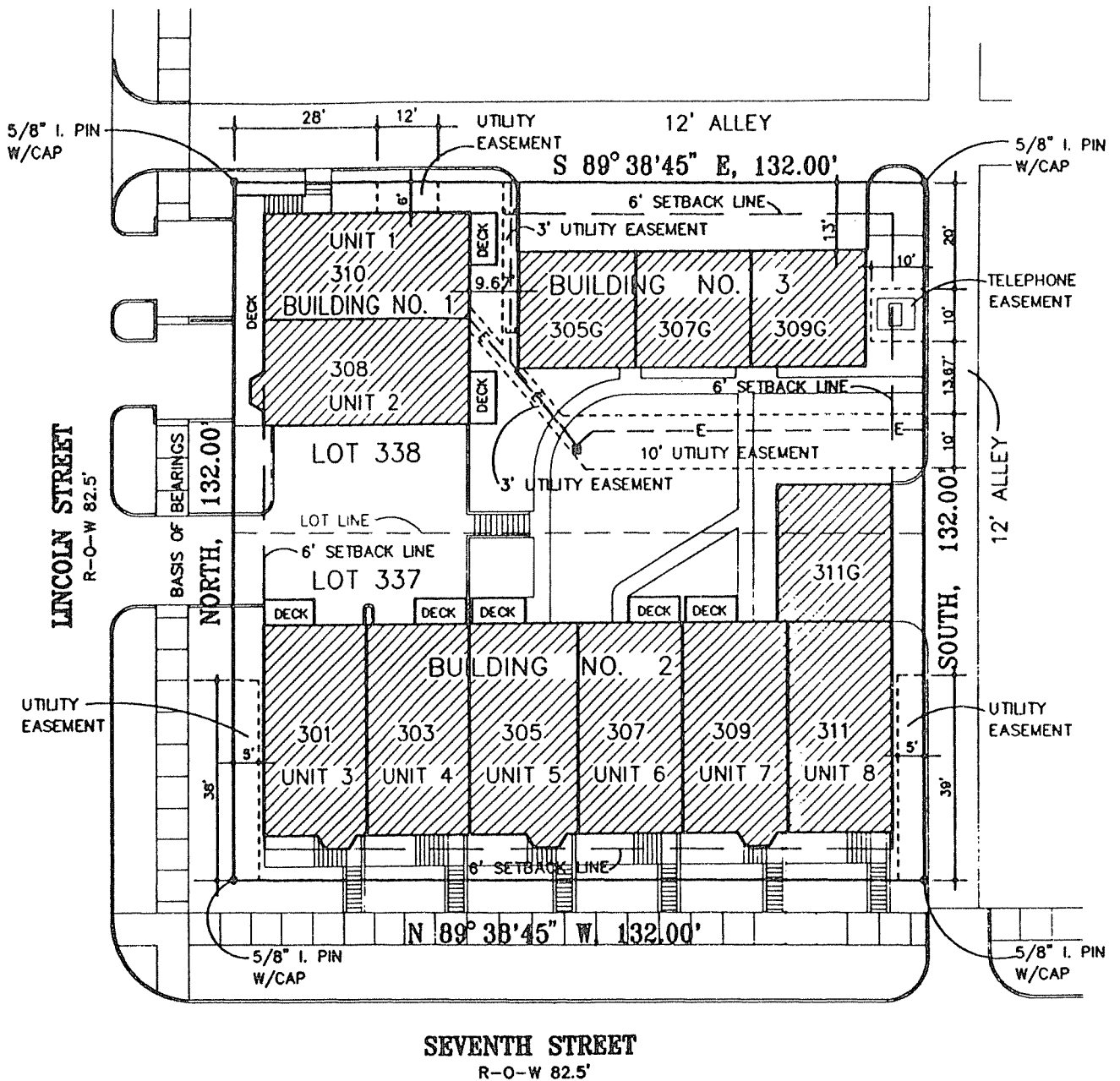
**BY-LAWS OF THE HOMEOWNERS ASSOCIATION**

EXHIBIT "C"

PLAT

See plat cabinet HB, envelope 135,  
in the office of the Recorder  
of Monroe County, Indiana.

PLAT  
**LINCOLN PLACE CONDOMINIUMS**  
**BLOOMINGTON, MONROE COUNTY, INDIANA**



**SURVEYOR'S CERTIFICATE**

I, GEORGE S. RIDGWAY, HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA; THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED BY ME ON AUGUST 15, 1995; THAT ALL THE MONUMENTS SHOWN THEREON ACTUALLY EXIST; AND THAT THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE ACCURATELY SHOWN.

*George S. Ridgway*  
 GEORGE S. RIDGWAY  
 REGISTERED LAND SURVEYOR  
 REG. NO. S0493  
 STATE OF INDIANA



(SEAL)

**EXHIBIT "D"**

**FLOOR PLANS**

See plat cabinet HB, envelope 135,  
in the office of the Recorder of  
Monroe County, Indiana.



**EXHIBIT "E"**  
**UNIT DESIGNATIONS**

EXHIBIT "E"  
Unit Designations

BLDG	UNIT	ADDRESS	DESIGN	FLOOR	LEVEL	SQ FT	TOTAL SQ FT	% OF COMMON AREA
1	1	310 N. Lincoln	2BR and Storage with Garage	Storage Garage 1st Flr 2nd Flr	796.50 796.50 805.71 815.87	300 410 713 713	2136	13.00
1	2	308 N. Lincoln	2BR and Storage with Garage	Storage Garage 1st Flr 2nd Flr	796.50 796.50 805.71 815.87	300 410 732 732	2174	13.23
2	3	301 E. Seventh	2BR and Storage with Garage	Storage Garage 1st Flr 2nd Flr	795.00 795.00 804.21 814.37	301 417 732 732	2182	13.28
2	4	303 E. Seventh	2BR and Storage with Garage	Storage Garage 1st Flr 2nd Flr	794.33 794.33 803.54 813.70	293 426 734 734	2187	13.31
2	5	305 E. Seventh	2BR	1st Flr 2nd Flr	802.88 813.04	752 752	1950	11.87
3	5G		Garage	Garage	800.00	446		
2	6	307 E. Seventh	2BR	1st Flr 2nd Flr	802.21 812.37	734 734	1914	11.65
3	6G		Garage	Garage	800.00	446		
2	7	309 E. Seventh	2BR	1st Flr 2nd Flr	801.54 811.70	752 752	1950	11.87
3	7G		Garage	Garage	800.00	446		
2	8	311 E. Seventh	2BR With Garage	Garage 1st Flr 2nd Flr	798.88 800.88 811.04	512 713 713	1938	11.79
							16,431	100.00

**BY-LAWS OF**  
**LINCOLN PLACE HOMEOWNERS ASSOCIATION, INC.,**

The undersigned Secretary of the Lincoln Place Homeowners Association, Inc., (the "Association") executes these By-Laws on behalf of the Association.

**ARTICLE 1**  
**PLAN OF UNIT OWNERSHIP**

**Section 1.1. Unit Ownership.** The Property located in Monroe County, State of Indiana, and more particularly described in the Declaration to which these By-Laws are attached, has been submitted to the provisions of the Indiana Horizontal Property Law of 1963 and its amendments, by Declaration recorded in the Office of the Recorder for Monroe County, State of Indiana; simultaneously herewith, and shall be known as Lincoln Place Condominiums (the "Condominium").

**Section 1.2. Applicability of By-Laws.** The provisions of these By-Laws are applicable to the Property of the Condominium and to its use and occupancy. These By-Laws are adopted simultaneously with the execution of a Declaration creating the Lincoln Place Condominiums to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference and all of the covenants, rights, definitions, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws.

**Section 1.3. Application.** All present and future owners, mortgagees, lessees and occupants of Units, their employees, and any other persons, who may use the facilities of the Property in any manner, are subject to the Declaration, these By-Laws, rules and regulations made pursuant hereto, and any amendment to these By-Laws.

The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these By-Laws, and any rules and regulations made pursuant hereto, and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

**ARTICLE 2**  
**BOARD OF DIRECTORS**

**Section 2.1. Number and Qualification -- Termination of Declarant Control.**

(A) A Board of Directors shall govern the affairs of the Corporation. The Board shall initially consist of three (3) persons.

(B) Declarant shall appoint the initial Directors to serve, at the election of Declarant, from the date upon which the Declaration is recorded until ninety (90) days after all Units have been sold and conveyed or until such time as their successors have been elected and qualified.

(C) The Unit Owners shall elect the Directors, except for the original three (3) Directors and their successors elected by Declarant pursuant to the Declaration. At any meeting at which Directors are to be elected, the Unit Owners may, by resolution, adopt specific procedures which are not inconsistent with these By-Laws or the corporation laws of the State of Indiana for conducting the elections.

(D) Except as provided in the above paragraph (B), the Directors shall be Unit Owners. If any Unit is owned by a partnership, limited liability company or corporation, any officer, partner, member or employee of that Unit Owner shall be eligible to serve as a Director and shall be deemed to be a Unit Owner for the purposes of the preceding sentence.

(E) The terms of the Directors shall be two (2) years but at the first Meeting of Unit Owners to Elect Directors, two (2) Directors shall be elected for a two (2) year term and one (1) Director will be elected for a one (1) year term.

(F) The Board of Directors shall elect the Officers. The Board of Directors and Officers shall take office upon election.

(G) After all Units have been sold and conveyed, the Corporation shall call a meeting for the purpose of electing Directors and give not less than ten (10) nor more than sixty (60) days' notice to the Unit Owners. If the Corporation fails to do so, any Unit Owner may call the meeting and give notice.

**Section 2.2. Powers and Duties.** The Board of Directors may act in all instances on behalf of Lincoln Place Homeowners Association, Inc., (the "Corporation") except as provided in the Declaration, these By-Laws or the Act. The Board of Directors shall have, subject to the limitations contained in the Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Corporation, which shall include, but not be limited to, the following:

(A) Adopt and amend By-Laws and rules and regulations;

(B) Adopt and amend budgets for revenues, expenditures and reserves;

- (C) Collect assessments for Common Expenses from Unit Owners;
- (D) Hire and discharge managing agents;
- (E) Hire and discharge employees, independent contractors and agents other than managing agents;
- (F) Institute, defend or intervene in litigation or administrative proceedings, or seek injunctive relief for violations of the Corporation's Declaration, By-Laws or rules, in the Corporation's name, on behalf of the Corporation or two (2) or more Unit Owners, on matters affecting the Common Elements;
- (G) Make contracts and incur liabilities;
- (H) Regulate the use, maintenance, repair, replacement and modification of Common Elements;
- (I) Cause additional improvements to be made as a part of the Common Elements;
- (J) Acquire, hold, encumber and convey, in the Corporation's name, any right, title or interest to real estate or personal property;
- (K) Grant easements for any period of time, including permanent easements, and grant leases, licenses and concessions, for no more than one (1) year, through or over the Common Elements;
- (L) Impose and receive a payment, fee or charge for services provided to Unit Owners and for the use, rental or operation of the Common Elements;
- (M) Impose a reasonable charge for late payment of assessments and, after notice and hearing, levy a reasonable fine for a violation of the Declaration, By-Laws, or rules of the Corporation;
- (N) Impose a reasonable charge for the preparation and recording of amendments to the Declaration or statements of unpaid assessments;
- (O) Provide for the indemnification of the Corporation's Directors and Officers and maintain Directors' and Officers' liability insurance;
- (P) Assign the Corporation's right to future income, including the right to receive Common Expense assessments;

(Q) Exercise any other powers which the Declaration or By-Laws confer;

(R) Exercise any other power that a legal entity of the same type as the Corporation may exercise in this state;

(S) Exercise any other power necessary and proper for the governance and operation of the Corporation.

**Section 2.3. Standard of Care.** In the performance of their duties, the Directors and Officers are required to exercise the care required of directors of nonprofit corporations in the State of Indiana.

**Section 2.4. Manager.** The Board of Directors may employ a manager for the Condominium at a compensation which the Board of Directors shall establish, to perform duties and services which the Board of Directors authorizes. The Board of Directors may delegate to the manager only the powers granted to the Board of Directors by these By-Laws under Section 2.2, Subdivisions (c), (e), (g) and (h). The manager may execute licenses, concessions and contracts pursuant to specific resolutions of the Board of Directors and to fulfill the requirements of the budget.

**Section 2.5. Removal of Directors.** The Unit Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote, at any meeting of the Unit Owners at which a quorum is present, may remove any member of the Board of Directors whom they elected, with or without cause.

**Section 2.6. Vacancies.** Vacancies in the Board of Directors, caused by any reason other than the removal of a Director, may be filled at a special meeting of the Board of Directors held for that purpose at any time after the occurrence of the vacancy, even though the Directors present at that meeting may constitute less than a quorum. These appointments shall be made in the following manner:

(A) As to vacancies of Directors whom Unit Owners elected, by a majority of the remaining elected Directors constituting the Board of Directors; and

(B) As to vacancies of Directors whom Declarant has the right to appoint, by Declarant.

Each person so elected or appointed shall be a Director for the remainder of the term of the Director so replaced.

**Section 2.7. Regular Meetings.** Declarant shall determine when the first regular meeting of the Board of Directors shall be held. The Directors shall determine how frequently to meet thereafter.

After the first Meeting of Unit Owners to Elect Directors has been held and new Directors elected, the Board of Directors shall hold a regular meeting within ten (10) days following each Annual Meeting of the Unit Owners, at a time and place which the Unit Owners shall set at the Annual Meeting. No notice shall be necessary to the newly-elected Directors in order to legally constitute such meeting, provided a majority of the Directors are present. The Board of Directors may set a schedule of additional regular meetings by resolution; no further notice is necessary to constitute regular meetings.

**Section 2.8. Special Meetings.** The President or a majority of the Directors may call special meetings of the Board of Directors if at least three (3) business days' notice is given to each Director. The notice shall be hand-delivered or mailed and shall state the time, place and purpose of the meeting.

**Section 2.9. Location of Meetings.** All meetings of the Board of Directors shall be held within the City of Bloomington, unless all Directors consent in writing to another location.

**Section 2.10. Waiver of Notice.** A Director may waive notice of any meeting in writing. A Director's attendance at any meeting of the Board of Directors shall constitute a waiver of notice. If the Directors are present at any meeting, no notice shall be required, and any business may be transacted at such meeting.

**Section 2.11. Quorum of Directors.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business. The vote of a majority of the Directors present at a meeting at which a quorum is present shall constitute a decision of the Board. If there is no quorum present, a majority of the Directors may adjourn the meeting. At any adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 2.12. Compensation.** The Unit Owners may resolve to give Directors a fee for serving as Directors. Directors may also receive reimbursement for necessary expenses actually incurred in connection with their duties. Directors acting as Officers or employees may also be compensated for those duties.

**Section 2.13. Consent to Corporate Action.** If a quorum of Directors or Directors on a committee established for certain purposes consent in writing to any corporate action taken or to be taken, such action shall be a valid corporate action as though it had been authorized at a meeting of the Board of Directors or the committee.

The Secretary shall file these consents with the minutes of the meetings of the Board of Directors.

**Section 2.14. Telephone Communication in Lieu of Attendance.** A Director may attend a meeting of the Board of Directors by using an electronic or telephonic communication method whereby the other members may hear the Directors and the Director may hear the deliberations of the other members on any matter properly brought before the Board of Directors. The Director's vote shall be counted and his presence noted as if he were present in person on that particular matter.

### **ARTICLE 3** **UNIT OWNERS**

**Section 3.1. Annual Meeting.** At the election of Declarant, but no later than ninety (90) days after all Units have been sold and conveyed, Declarant shall notify the Unit Owners that the Meeting of the Unit Owners to Elect Directors shall be held on a specified day, within thirty (30) days of the date of such notice. Subsequent Meetings of Unit Owners shall be held in the same month of succeeding years.

**Section 3.2. Election of Directors.** At the first Meeting of Unit Owners to Elect Directors, the members of the Board of Directors appointed by Declarant shall resign. At such Meeting and at all subsequent Annual Meetings, the Unit Owners shall elect new Directors by ballot, in accordance with the provisions of Article 2. The Unit Owners may transact other business as may properly come before them at these meetings.

**Section 3.3. Budget Meeting.** Unit Owners shall consider proposed budgets at Annual or Special Meetings called for other purposes as well.

**Section 3.4. Special Meetings.** The President, a majority of the members of the Board of Directors, or Unit Owners comprising twenty percent (20%) of the votes in the Corporation may call special meetings.

**Section 3.5. Place of Meetings.** Meetings of the Unit Owners shall be held in Bloomington, Indiana at a suitable place convenient to the Unit Owners, as the Board of Directors or the President may designate.

**Section 3.6. Notice of Meetings.** Except for budget meetings, which will be noticed not less than fourteen (14) nor more than thirty (30) days after the mailing of the notice, the Secretary or other Officer specified herein shall cause notice to be hand-delivered or sent prepaid by United States mail, not less than ten (10) nor more than thirty (30) days in advance of a meeting, to the mailing address of each Unit or to the mailing address which the Unit Owner has designated.



**Section 3.7. Waiver of Notice.** A Unit Owner may waive notice in writing of any meeting of the Unit Owners. The waiver shall be deemed equivalent to the receipt of notice.

**Section 3.8. Adjournment of Meeting.** At any meeting of Unit Owners, a majority of the Unit Owners who are present at that meeting, either in person or by proxy, may adjourn the meeting to another time.

**Section 3.9. Order of Business.** The order of business at all meetings of the Unit Owners shall be as follows:

- (A) Roll call (or check-in procedure);
- (B) Proof of notice of meeting;
- (C) Reading of minutes of preceding meeting;
- (D) Reports;
- (E) Report on number and term of memberships of the Board of Directors (if required and noticed);
- (F) Election of inspectors of election (when required);
- (G) Election of Directors of the Board of Directors (when required);
- (H) Ratification of budget (if required and noticed);
- (I) Unfinished business; and
- (J) New business.

**Section 3.10. Voting.**

(A) If only one (1) of several Owners of a Unit is present at a meeting of the Corporation, the Owner present is entitled to cast the vote allocated to the Unit. If more than one (1) of the Owners are present, the Owners shall designate one (1) Owner to cast the Unit's vote.

(B) A Unit Owner may cast the vote allocated to the Unit by a proxy duly executed. If more than one (1) person owns a Unit, each Owner of the Unit may vote or register protest to the casting of the vote by the other Owners of the Unit through a duly executed proxy. A Unit Owner may

revoke a proxy given under this section only by actual notice of revocation to the person presiding over a meeting of the Corporation. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one (1) year after its date, unless it specifies a shorter term.

(C) The vote of a corporation or business trust may be cast by any officer of that corporation or business trust in the absence of a board of directors or bylaws of the owning corporation or business trust designating a specific person. Any general partner of the owning partnership may cast the vote of a partnership in the absence of express notice of the designation of a specific person by the owning partnership. The moderator of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership or business trust owner is qualified to vote.

(D) Votes allocated to a Unit which the Corporation owns may not be cast.

**Section 3.11. Quorum.** Except as otherwise provided in these By-Laws, the Unit Owners present in person or by proxy at any meeting of Unit Owners, but no less than thirty percent (30%) of the members, shall constitute a quorum at that meeting.

**Section 3.12. Majority Vote.** The vote of a majority of the Unit Owners present in person or by proxy at a meeting at which a quorum is present shall be binding upon all Unit Owners for all purposes except where a higher percentage vote is required in the Declaration, these By-Laws, or by law.

## **ARTICLE 4** **OFFICERS**

**Section 4.1. Designation.** The principal Officers of the Corporation shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant Treasurer, an assistant Secretary and other Officers as it finds necessary. The President and Vice President, but no other Officers, must be Directors also. The same person may hold any two (2) offices, except the offices of President and Secretary. The office of Vice President may be vacant.

**Section 4.2. Election of Officers.** At the organizational meeting of each new Board of Directors, the Board of Directors shall elect annually the Officers of the Corporation.

**Section 4.3. Removal of Officers.** Upon the affirmative vote of a majority of the Directors, any Officer may be removed, either with or without cause. A successor

may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for that purpose.

**Section 4.4. President.** The President shall be the chief executive officer of the Corporation. The President shall preside at all meetings of the Unit Owners and of the Board of Directors. The President shall have all of the general powers and duties which are incident to the office of President of a nonprofit corporation organized under the laws of the State of Indiana, including but not limited to the power to appoint committees from among the Unit Owners from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Corporation. The President may fulfill the role of Treasurer in the absence of the Treasurer. The President may cause to be prepared and may execute amendments, attested by the Secretary, to the Declaration and these By-Laws on behalf of the Corporation, following authorization or approval of the particular amendment as applicable.

**Section 4.5. Vice President.** The Vice President shall take the place of the President and perform the President's duties whenever the President is absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint another Director to act in the place of the President on an interim basis. The Vice President shall also perform other duties which the Board of Directors or the President imposes.

**Section 4.6. Secretary.** The Secretary shall keep the minutes of all meetings of the Unit Owners and the Board of Directors. The Secretary shall have charge of the Corporation's books and papers as the Board of Directors may direct and shall perform all the duties incident to the office of Secretary of a nonprofit corporation organized under the laws of the State of Indiana. The Secretary may cause to be prepared and may attest to the President's execution of amendments to the Declaration and the By-Laws on behalf of the Corporation, following authorization or approval of the particular amendment as applicable.

**Section 4.7. Treasurer.** The Treasurer shall be responsible for Corporation funds and securities, for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. This Officer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Board of Directors and shall perform all the duties incident to the office of Treasurer of a nonprofit corporation organized under the laws of the State of Indiana. The Treasurer may endorse on behalf of the Corporation, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Corporation in banks which the Board of Directors shall designate. Except for reserve funds described below, the Treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Corporation, stock, securities or other investment instruments owned or controlled by the

Corporation or as fiduciary for others. Reserve funds of the Corporation shall be deposited in segregated accounts or in prudent investments, as the Board of Directors decides. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, authorized by the Treasurer, and executed by two (2) directors, one (1) of whom may be the Treasurer if the Treasurer is also a Director.

**Section 4.8. Agreements, Contracts, Deeds, Checks, etc.** Except as provided in these By-Laws, all agreements, contracts, deeds, leases, checks and other instruments of the Corporation shall be executed by any Officer of the Corporation or any other person or persons whom the Board of Directors designates.

**Section 4.9. Compensation.** The Unit Owners may resolve to give an Officer a fee for acting as an Officer. An Officer may also receive reimbursement for necessary expenses actually incurred in connection with Corporation duties.

**Section 4.10. Statements of Unpaid Assessments.** The Treasurer, assistant Treasurer, manager or, in their absence, any Officer having access to the books and records of the Corporation may prepare, certify, and execute statements of unpaid assessments, in accordance with the Act.

The Corporation may charge a reasonable fee for preparing statements of unpaid assessments. The Board of Directors shall establish the amount of this fee and the time of payment. The Corporation may refuse to furnish statements of unpaid assessments until the fee is paid. Any unpaid fees may be assessed as a Common Expense against the Unit for which the certificate or statement is furnished.

## **ARTICLE 5** **ENFORCEMENT**

**Section 5.1. Abatement and Enjoinment of Violations by Unit Owners.** The violation of any of the rules which the Board of Directors adopts or the breach of any provision of the Declaration shall give the Board of Directors the right, after notice and hearing except in case of an emergency, in addition to any other rights set forth in these By-Laws:

(A) To enter the Unit in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist in that Unit) that is existing and creating a danger to the Common Elements contrary to the intent and meaning of the provisions of the Documents. The Board of Directors shall not be deemed liable for any manner of trespass by this action; or

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

**Section 5.2. Fine for Violation.** By resolution, following notice and hearing, the Board of Directors may levy a fine of up to \$25 per day for each day that a violation of the documents or rules persists after notice and hearing, but this amount shall not exceed that amount necessary to insure compliance with the rule or order of the Board of Directors.

## **ARTICLE 6** **INDEMNIFICATION**

**Section 6.1. Indemnity of Directors and Officers.** The Directors and Officers of the Corporation shall have limited liabilities and be entitled to indemnification, as provided in the laws of the State of Indiana.

## **ARTICLE 7** **RECORDS**

**Section 7.1. Records and Audits.** The Corporation shall maintain financial records in accordance with the Declaration. The cost of the accounting shall be a Common Expense.

**Section 7.2. Examination.** All records which the Corporation or the manager maintain shall be available for examination and copying by any Unit Owner, any holder of a Security Interest in a Unit or its insurer or guarantor, or any of their duly authorized agents or attorneys, at the expense of the person examining the records, during normal business hours and after reasonable notice.

**Section 7.3. Records.** The Corporation shall keep the following records:

(A) An account for each Unit, which shall designate the name and address of each Unit Owner, the name and address of each mortgagee who has given notice to the Corporation that it holds a mortgage on the Unit, the amount of each Common Expense assessment, the dates on which each assessment comes due, the amounts paid on the account and the balance due;

(B) An account for each Unit Owner showing any other fees payable by the Unit Owner;

(C) A record of any capital expenditures in excess of \$3,000 which the Board of Directors approves for the current and next two (2) succeeding fiscal years;

(D) A record of the amount and an accurate account of the current balance of any reserves for capital expenditures, replacement and emergency repairs, together with the amount of those portions of reserves which the Corporation designates for a specific project;

(E) The most recent regularly prepared balance sheet and income and expense statement, if any, of the Corporation;

(F) The current operating budget adopted pursuant to the Act and ratified pursuant to the procedures of the Act;

(G) A record of any unsatisfied judgments against the Corporation and the existence of any pending suits in which the Corporation is a defendant;

(H) A record of insurance coverage provided for the benefit of Unit Owners and the Corporation;

(I) A record of any alterations or improvements to Units or Limited Common Elements which violate any provisions of the Declarations of which the Board of Directors has knowledge;

(J) A record of any violations, with respect to any portion of the Common Elements of health, safety, fire or building codes or laws, ordinances, or regulations of which the Board of Directors has knowledge;

(K) A record of the actual cost, irrespective of discounts and allowances, of the maintenance of the Common Elements;

(L) Balance sheets and other records required by local corporate law;

(M) Tax returns for state and federal income taxation;

(N) Minutes of proceedings of incorporators, Unit Owners, Directors, committees of Directors, and waivers of notice; and

(O) A copy of the most current versions of the Declaration, By-Laws, rules, and regulations of the Board of Directors, along with their exhibits and schedules.

## ARTICLE 8 MISCELLANEOUS

**Section 8.1. Notices.** All notices to the Corporation or the Board of Directors shall be delivered to the office of the manager, or, if there is no manager, to the office of the Corporation, or to such other address as the Board of Directors may designate by written notice to all Unit Owners and to all holders of security interests in the Units who have notified the Corporation that they hold a security interest in a Unit. Except as otherwise provided, all notices to any Unit Owner shall be sent to the Owner's address as it appears in the records of the Corporation. All notices to holders of security interests in the Units shall be sent, except where a different manner of notice is specified elsewhere in the Documents, by registered or certified mail to their respective addresses, as designated by them in writing to the Corporation. All notices shall be deemed to have been given when mailed, except notices of changes of address, which shall be deemed to have been given when received.

**Section 8.2. Fiscal Year.** The Board of Directors shall establish the fiscal year of the Corporation.

**Section 8.3. Waiver.** No restriction, condition, obligation or provision contained in these By-Laws 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.

**Section 8.4. Office.** The principal office of the Corporation shall be at such place as the Board of Directors may from time to time designate.

**Section 8.5. Working Capital.** A working capital fund is to be established in the amount of two (2) months' regularly budgeted initial Common Expense assessments, measured as of the date of the first assessment on the first phase, for all Units as they are created in proportion to their respective allocated interests in Common Expenses. Any amounts paid into this fund shall not be considered as advance payment of assessments. Each Unit's share of the working capital fund may be collected and then contributed to the Corporation by Declarant at the time the sale of the Unit is closed. The working capital shall be deposited without interest in a segregated fund. Declarant cannot use any of the working capital funds to defray its expenses, reserve contributions or construction costs or to make up budget deficits.

**Section 8.6. Reserves.** As a part of the adoption of the regular budget pursuant to the Declaration, the Board of Directors shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of improvements to the Common Elements and those Limited Common

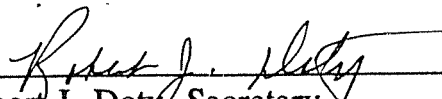
Elements that it is obligated to maintain, based upon the project's age, remaining life and the quantity and replacement cost of major common element improvements.

**ARTICLE 9**  
**AMENDMENTS TO BY-LAWS**

**Section 9.1. Amendments.** The Unit Owners may amend these By-Laws by a majority vote.

DATED this 25<sup>th</sup> day of September, 1995.

Lincoln Place Homeowners  
Association, Inc.

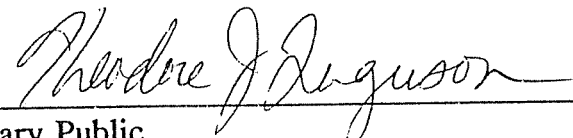
  
Robert J. Doty, Secretary

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MONROE )

Before me the undersigned, a Notary Public, personally appeared Robert J. Doty, Secretary of Lincoln Place Homeowners Association, Inc. and acknowledged the certification of the By-Laws for and on behalf of the Lincoln Place Homeowners Association, Inc.

My Commission Expires:

June 2, 1998

  
Notary Public  
Printed Name: Theodore J. Ferguson  
Residing in Monroe County, Indiana



**ARTICLES OF INCORPORATION OF  
LINCOLN PLACE HOMEOWNERS ASSOCIATION, INC.**

APPROVED  
AND  
FILED  
IND. SECRETARY OF STATE

The undersigned Incorporator of Lincoln Place Homeowners Association, Inc., desiring to form a corporation (the "Corporation") pursuant to the provisions of the Indiana Nonprofit Corporations Act of 1991 and its amendments (the "Act"), executed the following Articles of Incorporation.

**ARTICLE 1  
NAME**

**Section 1.1. Name.** The name of the Corporation is Lincoln Place Homeowners Association, Inc.

**ARTICLE 2  
PURPOSES, POWERS, AND LIMITATIONS**

**Section 2.1. Purposes.** The Corporation is a mutual benefit corporation, organized for the purpose of being a nonprofit "homeowners association," as defined in Section 528(c) of the Internal Revenue Code, or corresponding provision of any subsequent federal tax laws. The Corporation's purposes shall be:

(A) To acquire, construct, manage, maintain and care for "association property" as defined in Section 528(c) of the Internal Revenue Code of 1986, as amended ("Internal Revenue Code"), which association property includes, but is not limited to, the Common Area within that certain tract of property described in the Declaration of Horizontal Property Regime for Lincoln Place Condominiums, recorded in the Office of the Recorder of Monroe County, Indiana (the "Declaration"), and

(B) To transact any and all lawful business for which corporations may be incorporated under the Act, provided such business is not inconsistent with the Corporation's being organized and operated for nonprofit purposes.

**Section 2.2. Powers.** The Corporation shall have all of the general rights, privileges, and powers conferred upon corporations created by the Act. Subject to any limitations or restrictions imposed by law, these Articles of Incorporation, or any amendment hereto, the Corporation shall have the following general rights, privileges and powers:

(A) To continue as a Corporation under its corporate name perpetually;

- (B) To sue and be sued in its corporate name;
- (C) To have a corporate seal and to alter such seal at pleasure; however, the use of a corporate seal or an impression shall not be required upon and shall not affect the validity of any instrument whatsoever;
- (D) To acquire, own, hold, use, lease, mortgage, pledge, sell, convey or otherwise dispose of property, real or personal, tangible or intangible;
- (E) To borrow money and to issue, sell or pledge its obligations and evidences of indebtedness, and to mortgage its property to secure the payment thereof;
- (F) To acquire, own, hold, and use, and to lease, mortgage, pledge, sell, convey or otherwise dispose of property, real or personal, tangible or intangible;
- (G) To acquire, hold, own and vote and to sell, assign, transfer, mortgage, pledge, or otherwise dispose of the capital stock, bonds, securities, or evidences of indebtedness of any other corporation, domestic or foreign, insofar as the same shall be consistent with the express purposes of the Corporation;
- (H) To appoint such Officers and agents as the affairs of the Corporation may require and define their duties and fix their compensation, provided that such compensation is a fair and reasonable amount for services actually rendered to the Corporation;
- (I) To indemnify any Director or Officer or former Director or Officer of the Corporation against expenses actually and reasonably incurred by him in connection with the defense of any civil action, suit or proceeding in which he is made or threatened to be made a party by reason of being or having been a Director or Officer;
- (J) To make By-Laws for the government and regulation of its affairs;
- (K) To cease its activities and to dissolve and surrender its corporate franchise; and
- (L) To do all acts and things necessary, convenient or expedient to carry out the purposes for which it is formed.

**Section 2.3. Limitation of Activities.** The Corporation shall not possess the power of engaging in any activities for the purpose of or resulting in the pecuniary remuneration to its members as such. The Corporation shall not issue capital stock. This provision shall not prohibit fair and reasonable compensation to members for services actually rendered; nor shall it prohibit the Corporation from charging a fee for services rendered.

The Corporation shall receive sixty percent (60%) or more of its gross income from membership dues, fees or assessments from the owners of Lincoln Place Condominiums. The Corporation shall make ninety percent (90%) or more of its expenditures for the acquisition, construction, management, maintenance and care of Corporation property.

### **ARTICLE 3** **PERIOD OF EXISTENCE**

**Section 3.1. Period.** The period during which the Corporation shall continue is perpetual.

### **ARTICLE 4** **REGISTERED AGENT AND OFFICE**

**Section 4.1. Registered Agent.** The name and post office address of the Corporation's Registered Agent is:

Robert J. Doty  
239 Fountain Square  
Bloomington, Indiana 47404

**Section 4.2. Registered Office.** The post office address of the Corporation's Registered Office is:

239 Fountain Square  
Bloomington, Indiana 47404

### **ARTICLE 5** **MEMBERSHIP**

**Section 5.1. Classes.** The Corporation shall have one (1) class of members who shall have the same rights, privileges, duties, liabilities, limitations and restrictions.

**Section 5.2. Membership.** All Unit Owners shall become members.

**Section 5.3. Rights, Preferences, Limitations and Restrictions of Members.** Each member of the Corporation agrees to abide by the By-Laws of the Corporation and all other rules and regulations which the Board of Directors adopts.

**Section 5.4. Voting Rights.** One (1) vote may be cast for each Unit. This right to vote may be exercised in person, by written proxy, or by mail, as the By-Laws may provide from time to time.

**Section 5.5. Meetings of Members.** Meetings of members may be held at any place in Bloomington, Indiana, which the Board of Directors of the Corporation shall designate.

## **ARTICLE 6** **DIRECTORS**

**Section 6.1. Number of Directors.** The initial Board of Directors shall be composed of three (3) members; however, the Board may expand to include not less than three (3) nor more than fifteen (15) Directors, as set forth in the By-Laws of the Corporation. If the number of Directors is increased, the members of the Corporation shall elect the additional Director(s).

**Section 6.2. Names and Post Office Addresses of Initial Directors.** The names and post office addresses of the initial Board of Directors are:

<b><u>NAME</u></b>	<b><u>ADDRESS</u></b>
Robert J. Doty	239 Fountain Square Bloomington, Indiana 47404
Nancy Bowlen	239 Fountain Square Bloomington, Indiana 47404
James E. Murphy	405 N. Rogers Bloomington, Indiana 47404

**Section 6.3. Election of Directors.** The initial Directors and their successors elected by Declarant, pursuant to the Declaration, shall serve until the Meeting of the Unit Owners to elect Directors has been held and successors elected and qualified. At the regular annual meeting, the members of the Corporation shall elect by vote the Board of Directors.

**Section 6.4. Loans to Directors and Officers.** The Corporation shall make no advancement for services to be performed in the future nor shall it make any loan of money or property to any Director or Officer of the Corporation.

## **ARTICLE 7** **INCORPORATOR**

**Section 7.1. Name and Post Office Address.** The name and post office address of the Incorporator of the Corporation is as follows:

CFC, Inc.  
Attn: James E. Murphy, President  
405 North Rogers Street  
Bloomington, Indiana 47404

## **ARTICLE 8** **PROVISIONS FOR REGULATION AND** **CONDUCT OF THE AFFAIRS OF THE CORPORATION**

**Section 8.1. Prohibition of Distribution to Private Persons.** No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its members, Directors, Officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered. If the Corporation is dissolved, all assets shall be distributed equally among the Units.

**Section 8.2. By-Laws.** The Board of Directors of the Corporation shall have the power, with the assent or vote of the majority of the members, to make, alter, amend or repeal the By-Laws, providing for the internal regulation and conduct of the affairs of the Corporation.

**Section 8.3. Indemnification.** To the extent not inconsistent with the law of the State of Indiana, the Corporation shall indemnify every person (and the heirs and personal representatives of such person) who is or was a Director or Officer of the Corporation against all liability and reasonable expense which he may incur in connection with or resulting from any claim, action, suit or proceeding (a) if such Director or Officer is wholly successful with respect thereto or (b) if not wholly successful, then if such Director or Officer is determined to have acted in good faith in what he reasonably believed to be the best interests of the Corporation and, in addition, with respect to any criminal action or proceeding, is determined to have had no reasonable cause to believe that his conduct was unlawful. The termination of any claim, action, suit or proceeding, by judgment, settlement (whether with or without court approval), conviction, plea of guilty or plea of nolo contendere (or its equivalent) shall not create a presumption that a Director or Officer did not meet the standards of conduct set forth in this Section.

As used in this Section, the terms claim, action, suit or proceeding shall include any claim, action, suit or proceeding and all appeals thereof (whether brought by or in the right of this Corporation, any other corporation or otherwise), civil, criminal,

administrative or investigative, or threat thereof, in which a Director or Officer of the Corporation (or his heirs and personal representatives) may become involved, as a party or otherwise:

(A) by reason of his being or having been a Director or Officer of the Corporation or of any corporation which he served as such at the request of the Corporation, or

(B) by reason of his acting or having acted in any capacity in a partnership, association, trust or other organization or entity where he served as such at the request of the Corporation, or

(C) by reason of any action taken or not taken by him in any such capacity, whether or not he continues in such capacity at the time such liability or expense shall have been incurred.

As used in this Section, the terms "liability" and "expense" shall include but shall not be limited to counsel fees and disbursements and amounts of judgments, fines or penalties against, and amounts paid in settlement by or on behalf of, a Director or Officer, including costs and expenses.

As used in this Section, the term "wholly successful" shall mean (a) termination of any action, suit or proceeding against the person in question without any finding of liability or guilt against him, (b) Court approval, with knowledge of the indemnity herein provided, of a settlement of any action, suit or proceeding, or (c) the expiration of a reasonable period of time after the making of any claim or threat of an action, suit or proceeding without the institution of the same, without any payment or promise made to induce a settlement.

Every person claiming indemnification hereunder (other than one who has been wholly successful with respect to any claim, action, suit or proceeding) shall be entitled to indemnification (a) if special independent legal counsel, which may be regular counsel of the Corporation or other disinterested person or persons, in either case selected by the Board of Directors, whether or not a disinterested quorum exists (such counsel or person or persons being hereinafter called the "referee"), shall deliver to the Corporation written findings that such Director or Officer has met the standards of conduct set forth herein, and (b) if the Board of Directors, acting upon such written finding, so determines. The person claiming indemnification shall, if requested, appear before the referee and answer questions which the referee deems relevant and shall be given ample opportunity to present to the referee evidence upon which he relies for indemnification. The Corporation shall, at the request of the referee, make available facts, opinions or other evidence in any way relevant to the referee's findings which are within the possession or control of the Corporation.

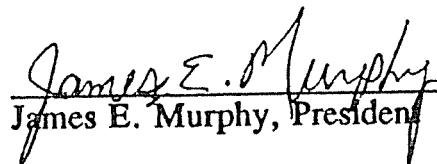
The rights of indemnification provided in this Section shall be in addition to any rights to which any such Director or Officer may otherwise be entitled. Irrespective of the provisions of this Section, the Board of Directors may, at any time and from time to time, approve indemnification of Directors, Officers, employees or other persons to the full extent permitted by the law of the State of Indiana, whether on account of past or future transactions.

By action of the Board of Directors, whether or not a disinterested quorum exists, the Corporation may advance expenses incurred with respect to any claim, action, suit or proceeding prior to the final disposition thereof upon receipt of any undertaking by or on behalf of the recipient to repay such amount unless he is entitled to indemnification.

The Board of Directors is authorized and empowered to purchase insurance covering the Corporation's liabilities and obligations under this Section and insurance protecting the Corporation's Directors, Officers, members and employees.

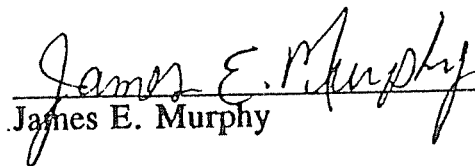
FURTHERMORE, I execute these Articles of Incorporation and certify the truth of the facts herein stated, this 25 day of September, 1995.

CFC, Inc.

  
James E. Murphy, President

#### AFFIRMATION

I affirm under the penalties for perjury that the above and foregoing representations are true and correct to the best of my knowledge and belief.

  
James E. Murphy

STATE OF INDIANA  
OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF INCORPORATION

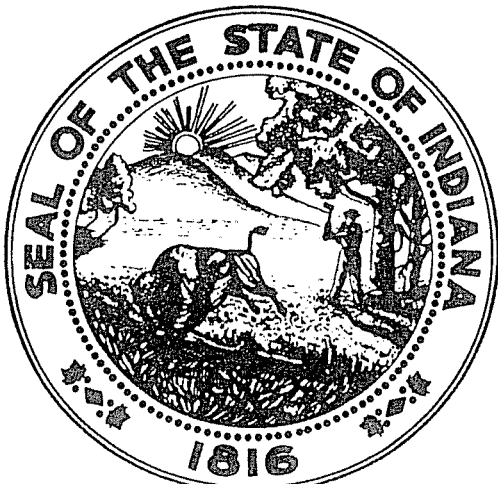
OF

LINCOLN PLACE HOMEOWNERS ASSOCIATION, INC.

I, SUE ANNE GILROY, Secretary of State of Indiana, hereby certify that Articles of Incorporation of the above corporation have been presented to me at my office accompanied by the fees prescribed by law; that I have found such Articles conform to law; all as prescribed by the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended.

NOW, THEREFORE, I hereby issue to such corporation this Certificate of Incorporation, and further certify that its corporate existence will begin September 27, 1995.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis, this Twenty-seventh day of September, 1995.



*Sue Anne Gilroy*  
SUE ANNE GILROY, Secretary of State Deputy



515444

FIRST AMENDED DECLARATION OF  
HORIZONTAL PROPERTY REGIME FOR  
LINCOLN PLACE CONDOMINIUMS

RECORDED  
A.M. 9:34 P.M.       

OCT 24 1995

*J. J. J. J.*  
RECORDER MONROE CO.. IN

Filed for Record  
In the Office of the Recorder  
of Monroe County, Indiana

Prepared By:

Theodore J. Ferguson  
Cynthia A. Williams  
FERGUSON, FERGUSON & LLOYD  
Attorneys at Law  
403 East Sixth Street  
Bloomington, IN 47408-4098  
(812) 332-2113

NOW, THEREFORE, CFC, for the purposes set forth, pursuant to the provisions in Article 26 of the Declaration, and in accordance with and by means of the powers reserved or conferred upon it, hereby amends and supplements said Declaration in the following respects:

## ARTICLE 1 DEFINITIONS

The definitions used and set forth in the Declaration and Exhibits shall be applicable to this First Amended Declaration. Additional definitions applicable to the Declaration and this amendment shall be:

(R) "Common Elements" shall have the same meaning as set forth in the Act for "Common Areas and Facilities" and as more fully described in Article 8 of the Declaration.

(S) "Common Interest Community" shall have the same meaning as set forth in above Subparagraph (P) for "Property" or "Condominium Property."

## ARTICLE 29 MORTGAGEE PROTECTION

This Article shall be amended to read as follows:

(A) Mortgagee Rights.

(ii) Lien Subordinate. The lien for delinquent and unpaid assessments described in this Declaration shall be subordinate to the lien of any first mortgage including mortgages made or guaranteed by the United States Government or any instrumentality thereof, including Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), Federal Home Loan Mortgage Corporation, Department of Housing and Urban Development, Veterans Administration, or any Municipal Bonding Authority.

## ARTICLE 30 ASSESSMENT AND COLLECTION OF COMMON EXPENSES

This Article shall be amended to read as follows:

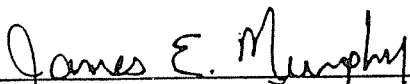
(C) Liens.

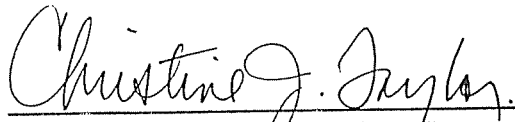
(ii) A lien under this Article attaches from the time of assessment on the Unit, prior to all other liens except only: (1) tax liens on the Unit in favor of any assessing unit and special district, and (2) all sums unpaid on a first mortgage of record. This Subparagraph does not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Homeowners Association. A lien under this Article is not subject to the provision for exemptions under the laws of the State of Indiana.

A lien for Common Expense assessments is not affected by the sale or transfer of the Unit unless a foreclosure of a first mortgage is involved. The foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but will not relieve any subsequent Unit Owner from paying further assessments. Notice of such a lien shall secure all assessments against the Unit becoming due thereafter until the lien has been satisfied.

IN WITNESS WHEREOF, CFC, Inc., the Owner of Lincoln Place Condominiums, has caused this First Amended Declaration to be executed and, as Declarant, CFC, Inc., has given its consent to this amendment on the day and year written above.

CFC, INC.,  
Owner and Declarant of  
Lincoln Place Condominiums

  
By: James E. Murphy, President

  
Attest: Christine J. Taylor, Secretary

STATE OF INDIANA     )  
                                      ) SS:  
COUNTY OF MONROE )

Before me, a notary public in and for said county and state, personally appeared James E. Murphy and Christine J. Taylor, known to me to be said President and Secretary, respectively, of CFC, Inc., an Indiana corporation, who acknowledged the execution of the foregoing First Amended Declaration for and on behalf of said corporation, for the property known as Lincoln Place Condominiums, and who, having been duly sworn, stated that the representations contained therein are true.

WITNESS my hand and seal this 24th day of October, 1995.

My Commission Expires:

July 4, 1998

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Lois Kreager Boas  
Notary Public  
Printed Name: LOIS KREAGER BOAS  
County of Residence: MONROE

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BOOK 249 PAGE 116

SECOND AMENDED DECLARATION OF  
HORIZONTAL PROPERTY REGIME FOR  
LINCOLN PLACE CONDOMINIUMS

RECORDED  
A.M. \_\_\_\_\_ P.M. 2:32

DEC 16 1997

*Jim Miller*  
RECORDER MONROE CO., IN

Filed for Record  
in the Office of the Recorder  
of Monroe County, Indiana

Prepared By:

Theodore J. Ferguson  
Cynthia A. Williams  
FERGUSON & FERGUSON  
Attorneys at Law  
403 East Sixth Street  
Bloomington, IN 47408-4098  
(812) 330-2030

SECOND AMENDED DECLARATION OF  
HORIZONTAL PROPERTY REGIME FOR  
LINCOLN PLACE CONDOMINIUMS

BOOK 249 PAGE 117

THIS SECOND AMENDED DECLARATION is made and executed this 23<sup>rd</sup> day of November, 1997, by CFC, Inc. ("CFC"), the Owner of four Units in and the Declarant of Lincoln Place Condominiums, and the Additional Owners of four Units in Lincoln Place Condominiums who are named below ("Additional Owners"), pursuant to the provisions of the Indiana Horizontal Property Law and in accordance with the terms and provisions of Article 26 of the Declaration of Horizontal Property Regime for Lincoln Place Condominiums, duly filed for record on September 27, 1995, as Instrument No. 513990, in the Office of the Recorder of Monroe County, Indiana.

WITNESSETH:

WHEREAS, CFC submitted the following real property in Monroe County, Indiana:

Lots Numbered 337 and 338 in the original plan of the City of Bloomington, Monroe County, Indiana bounded and described as follows: Beginning at an iron pin (set this survey) at the intersection of the North line of Seventh Street with the East Line of Lincoln Street; thence North (basis of bearings) along the East line of Lincoln Street 132.00 feet to an iron pin (set this survey); thence South 89 degrees 38 minutes 45 seconds East (City plat calls this line East), 132.00 feet to an iron pin (set this survey); thence South 132.00 feet along the West line of the platted alley to an iron pin (set this survey); thence North 89 degrees 38 minutes 45 seconds West (City plat calls this line West), 132.00 feet along the North line of Seventh Street to the point of beginning,

to the provisions of the Indiana Horizontal Property Law, and created the condominium form of ownership with respect to three (3) buildings located on the real property, containing an aggregate of eight (8) separate Units, all as more particularly described in Article 5 of the Declaration of Horizontal Property Regime, dated September 25, 1995, and recorded September 27, 1995, as Instrument No. 513990 in the Office of the Recorder of Monroe County, Indiana (hereinafter referred to as the "Declaration");

WHEREAS, CFC and the Additional Owners desire to amend the insurance provisions in Articles 19 and 20 of the Declaration; and

BK 235 Pg 134

NOW, THEREFORE, CFC and the Additional Owners, for the purposes set forth, pursuant to the provisions in Article 26 of the Declaration, and in accordance with and by means of the powers reserved or conferred upon them, hereby amend and supplement said Declaration in the following respects:

**ARTICLE 1**  
**DEFINITIONS**

The definitions used and set forth in the Declaration and Exhibits and First Amended Declaration shall be applicable to this Second Amended Declaration.

**ARTICLE 19**  
**INSURANCE**

This Article shall be amended to read as follows:

The Homeowners Association, through the Board of Directors, shall obtain and maintain at all times insurance of the type and kind in not less than the amounts provided in this Declaration and the By-Laws and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium properties similar in construction, design and use. Such insurance shall be governed by the following provisions:

(A) The Board of Directors shall have the authority to and shall obtain insurance policies upon the Condominium Property for the benefit of the Unit Owners and their Mortgagees as their interests may appear, and provision shall be made for the issuance of certificates of mortgagee endorsements to the Mortgagees of the Unit Owners and delivery of the certificates to Mortgagees within ten (10) days from their original issuance or the issuance of the renewals thereof. Such insurance shall insure permanent fixtures, improvements and betterments (regardless of ownership) such as, but not limited to, wall surfaces, permanent floor coverings, installed appliances, patios and porches. The originals of all such policies and the endorsements thereto shall be deposited with the Board of Directors, as insurance trustees, and certificates of insurance, together with proof of payment of premiums, shall be delivered to the Unit Owners at least ten (10) days prior to the expiration date with respect to the then current policies.

Each Unit Owner shall be solely responsible for loss or damage to the

contents of his Unit, however caused, and his personal property stored elsewhere on the Property. The Homeowners Association shall have no liability to the Owner for loss or damage to the contents of any Unit. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary, including but not limited to personal liability insurance and casualty insurance upon his Unit, but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to the proration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

\* \* \* \*

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## ARTICLE 20

### DISTRIBUTION OF INSURANCE PROCEEDS

Proceeds of insurance policies received by the Board of Directors as insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

2

) All expenses of the insurance trustee shall be first paid or provisions made therefor.

) In the event of damage to or destruction of the Building(s) and/or the Common Areas and Facilities as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Building(s) and/or the Common Areas and Facilities, and the Board of Directors shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost for such repair and restoration in excess of the insurance proceeds shall be paid by all Owners of Units directly affected by damage in the same proportion that their respective percentage interest bears to the percentage interest of all such affected Owners. A Unit shall be deemed to be affected if and only if such Unit is located within the Building in which the fire or other casualty occurs. If any Owner or Owners refuse or fail to make the required payments, the other Owners



STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MONROE )

BOOK 249 PAGE 121

Before me, a notary public in and for said county and state, personally appeared James E. Murphy and Christine J. Taylor, known to me to be said President and Secretary, respectively, of CFC, Inc., an Indiana corporation, who acknowledged the execution of the foregoing Second Amended Declaration for and on behalf of said corporation, for the property known as Lincoln Place Condominiums, and who, having been duly sworn, stated that the representations contained therein are true.

WITNESS my hand and seal this 3RD day of November, 1997.

My Commission Expires:

11/27/98

Nancy Bowlen  
Notary Public  
Printed Name: Nancy Bowlen  
County of Residence: Monroe

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MONROE )

Before me, a notary public in and for said county and state, personally appeared Roger W. Gildersleeve and Neva J. Gildersleeve, who acknowledged the execution of the foregoing Second Amended Declaration for the property known as Lincoln Place Condominiums, and who, having been duly sworn, stated that the representations contained therein are true.

WITNESS my hand and seal this 17<sup>th</sup> day of November, 1997.

My Commission Expires:

11/27/98

Nancy C. Bowlen  
Notary Public  
Printed Name: Nancy C. Bowlen  
County of Residence: Monroe