

20-1027
When recorded, return to:
Hollis W. Jones

Title Ins. Co. of Minnesota
3003 N. Central Avenue
Phoenix, Arizona 85011

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RANDOLPH COURT

DECLARATION OF HORIZONTAL PROPERTY REGIME

AND OF

COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, the undersigned, (herein referred to as Grantor) is the sole owner of that certain real property located in the City of Phoenix, County of Maricopa, State of Arizona, and described as:

Lot 5, Forman Tract, a subdivision of part of SE quarter of Section 28, Township 2N, Range 3E of the Gila and Salt River base and meridian in the City of Phoenix, recorded in the office of the Maricopa County Recorder in Book 13 of Maps, Page 29.

and

WHEREAS, the undersigned has improved said property by constructing thereon five buildings, containing a total of 38 apartment units:

and

WHEREAS, the undersigned has recorded a plat amending the description of said property to the following:

Units 1 through 38, Randolph Court, a Horizontal Property Regime according to the plat of record in the office of the Maricopa County Recorder in Book 176 of Maps, Page 37 thereof, Maricopa County, Arizona:

and

WHEREAS, it is the desire and intention of the undersigned to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of the real property, including certain apartment units to be constructed thereon, together with certain common elements.

NOW THEREFORE, the Grantors do hereby submit said property to a Horizontal Property Regime pursuant to Sections 33-551 to 33-561, Arizona Revised Statutes, as amended, and do hereby declare that all of the real property described above be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the

following limitations, restrictions, covenants, conditions, all of which are declared to be in furtherance of a plan for the improvement and sale of said real property and are established for the purpose of enhancing and perfecting value, desirability and attractiveness of the real property and every part thereof. All of the limitations, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described real property or any part thereof, and shall be for the benefit of each owner of any portion of real property or any interest therein, and inure to the benefit of, and be binding upon, each successor in interest or the owners thereof.

DESCRIPTION OF CONDOMINIUM

I. The entire Horizontal Property Regime shall be composed of five buildings containing apartment units and numbered as follows:

Building A - Units	1	through	11
" B - "	12	"	19
" C - "	20	"	24
" D - "	25	"	33
" E - "	34	"	38

Each residential unit is composed of and shall include a numbered apartment unit and patio attached thereto. The boundary lines of each numbered unit are the interior finished surface of the floor, ceiling, and perimeter walls of each unit, as shown on Exhibits A and B to this Declaration.

Each apartment unit shall have the exclusive use of an area located on the roof adequate to accommodate, operate and maintain the air conditioning and heating units serving the apartment unit.

II. Each unit shall represent and be entitled to an undivided 1/38 interest in and to the entire Horizontal Property Regime.

III. Descriptions of the cubic content space of the buildings with reference to their location on the land are attached hereto, made a part hereof, and marked "Exhibits A and B".

IV. Descriptions of the cubic content space of each apartment located within the buildings are attached hereto, made a part hereof, and marked "Exhibits A and B".

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V. Description of the common elements is the description of the buildings and grounds as depicted in Exhibits A and B hereof, less the descriptions of the apartment units as provided in said exhibits, including the land and all foundations, floors, walls, ceilings, equipment, walkways, fences, swimming pools and other facilities, equipment or structures and air space not shown or defined as part of a unit, as set forth above.

VI.

DEFINITIONS

The following terms as used herein shall have the meaning indicated:

- A. COUNCIL OF CO-OWNERS shall consist of all record owners of units in RANDOLPH COURT, a horizontal property regime.
- B. BOARD OF GOVERNORS shall mean the Board of Governors as provided in paragraph XI hereof.
- C. VOTING OWNER shall have the meaning given to that term by paragraph VIII A.
- D. UNIT OWNER shall mean the title owner or purchaser under a contract or agreement of sale of a unit.
- E. CONDOMINIUM shall mean the entire property conveyed by deed to a unit owner.

VII

PARTITION

- A. Except as otherwise specifically provided in this agreement, there shall be no judicial partition of the project or any part thereof, nor shall Grantor or any person acquiring an interest in the project or any part thereof seek any judicial partition, provided, however, that if any condominiums shall be owned by two or more co-tenants as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants.

- R. All unit owners, by acceptance of deeds for units, whether from the Grantor or subsequent owners or by the signing of contracts or agreements to purchase same; all lessees, all encumbrancers or lienors or their successors, by acceptance of an instrument encumbering a unit as security for a loan or by performing any act giving rights to lien, rights against the property by virtue of law, shall thereby and by said act, consent and agree that all benefits of § 33-560, A.R.S., are waived when:
1. An affidavit pursuant to paragraph XIV has been recorded;
 2. The time period (or any authorized extension thereof) provided by paragraph XIX hereof for contracting for repair, reconstruction or rebuilding has expired; and
 3. No such contract has been recorded.

VIII

VOTING

- A. There shall be one (1) Voting Owner of each unit, who shall be a record Unit Owner. The Voting Owner shall be designated by the record Unit Owner or Owners of each separate unit by written notice to the Board of Governors. Said designation of a person as a Voting Owner of a Unit shall be revocable at any time by actual notice to the Board of Governors of the death or judicially declared incompetence of any record Unit Owner or by a written instrument delivered to the Board of Governors by any record Unit Owner. The power herein conferred to designate the Voting Owner of a unit and to revoke said designation may be exercised by the Unit Owner's guardian, or, during the administration of his estate, by the executor or administrator of the deceased record Unit Owner where

the latter's interest in the unit is subject to administration in his estate. The designation by a record Unit Owner shall be deemed to be revoked by the judicial appointment of a receiver appointed by a Court of competent jurisdiction in any foreclosure proceeding commenced by a mortgagee of any unit, or upon the sale of a unit at a Sheriff's sale resulting from a mortgage or lien foreclosure and such receiver, during the period of his receivership, and the successful bidder at such sale, as the case may be, shall be deemed to be a record Unit Owner for the purpose of designating a Voting Owner. If no Voting Owner of a unit ownership has been designated or said designation has been revoked as provided hereinabove, no vote may be cast on behalf of such unit until a Voting Owner has been designated as provided herein. Upon transfer of title to a unit, the designation of a Voting Owner shall be deemed to be revoked.

- B. At any meeting of the Council of Co-Owners, each Voting Owner shall be entitled to cast one (1) vote for each condominium owned by him. Any Voting Owner may attend and vote at such meeting in person, or by an agent duly appointed by an instrument in writing signed by the Voting Owner and filed with the Board or Manager. Any designation of an agent to act for a Voting Owner may be revoked at any time by written notice to the Board or Manager, and shall be deemed revoked when the Board or Manager shall receive actual notice of the death or judicially declared incompetency of such Voting Owner or of the conveyance by such Owner of his unit. Where there is more than one record Owner, any and all such persons may attend any meetings of the Council of Co-Owners, but it shall be necessary for those present to act by majority in

order to cast the votes to which they are entitled, although if only one Co-Owner is present in person or by proxy at any Council of Co-Owners meeting, he may vote all of the shares jointly owned. Any designation of an agent to act as an agent for Co-Owners must be signed by a majority of such Co-Owners.

IX

MEETINGS

- A. Quorum The presence at any meeting in person or by proxy of the Council of Co-Owners having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Council of Co-Owners upon the affirmative vote of a majority of the voting power.
- B. Annual Meeting There shall be a meeting of the Council of Co-Owners on the first Monday of February of each year at 8:00 p.m. upon the Common Area or at such other reasonable place or time (not more than sixty (60) days before or after such date) as may be designated by written notice of the Board delivered to the Council of Co-Owners not less than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting. At the annual meeting, the Board shall present an audit of the maintenance fund, itemizing receipts and disbursements for the preceding calendar year. Within ten (10) days after the annual meeting, said statement shall be delivered to the Co-Owners not present at said meeting.
- C. Special Meetings Special meetings of the Council of Co-Owners may be called at any time for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the Co-Owners, or for any other reasonable purpose. Said meetings shall be called by written notice, signed

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by the President, or by the Co-Owners having one-third (1/3) of the total votes and delivered not less than fifteen (15) nor more than thirty (30) days prior to the date fixed for said meeting. Said notices shall specify the date, time and place of the meeting, and the matters to be considered thereat.

X

NOTICES

Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to each such person at the address given by such person to the Secretary of the governing body for the purpose of service of such notice or to the Unit of such person if no address has been given to the Secretary. Such address may be changed from time to time by notice in writing to the Secretary.

XI

ELECTION AND PROCEEDINGS OF THE BOARD

A. At each annual meeting the Council of Co-Owners shall elect a Board of Governors for the forthcoming year, consisting of three (3) Co-Owners, provided, however, that the first Board elected hereunder may be elected at a special meeting duly called, said Board to serve until the first annual meeting. The first Board shall be elected within thirty (30) days after conveyance of the first condominium subject hereto to a Co-Owner. Every Co-Owner entitled to vote at any election of members of the Board may cumulate his votes and give one candidate a number of votes equal to the number of members of the Board to be elected, multiplied by the number of votes to which such Co-Owners are otherwise entitled, or distribute his votes on the same principal among as many candidates

as he thinks fit. The candidates receiving the highest number of votes up to the number of members of the Board to be elected shall be deemed elected. All of the votes shall be cast by written ballot.

- B. Term Members of the Board shall serve for a term of one (1) year and until their respective successors are elected, or until their death, resignation, or removal: provided that if any member ceases to be an Owner, his membership on the Board shall thereupon terminate.
- C. Resignation and Removal Any member of the Board may resign at any time by giving written notice to the Secretary, and any co-owner member may be removed from membership on the Board by a vote by the Co-Owners: provided that unless the entire Board is removed, an individual member shall not be removed if the number of shares voted against his removal exceeds the quotient arrived at when the total number of outstanding shares entitled to vote is divided by one plus the authorized number of members on the Board.
- D. Vacancies Vacancies on the Board shall be filled by appointment by the remaining Board members.
- E. Proceedings A majority of the members of the Board shall constitute a quorum and, if the quorum is present, the decision of a majority of those present shall be the act of the Board. The Board shall elect a president who shall preside both over its meetings and those of the Co-Owners. Meetings of the Board may be called, held, and conducted in accordance with such rules as the Board may from time to time adopt. The Board may also act without a meeting by unanimous written consent of its members.
- F. Grantor Performs Functions Until the first election of the Board, the rights, duties and functions of the Board shall be exercised by Grantor, his successors or assigns.

G. Notice of Election After the first election of the Board, Grantor shall execute, acknowledge, and record an affidavit stating the names of all of the persons elected to membership on the Board. Thereafter, any two persons who are designated of record as being members of the most recent Board (regardless of whether or not they shall still be members) may execute, acknowledge, and record an affidavit stating the names of all of the members of the then current Board. The most recently recorded of such affidavits shall be prima facie evidence the persons named therein are all of the incumbent members of the Board and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

XII

AUTHORITY OF THE BOARD

The Board of Governors, for the benefit of the condominium project and the individual condominium owners, shall enforce the provisions hereof and shall acquire and pay for out of the maintenance fund hereinafter provided for, the following:

- A. Water, sewer, garbage, electrical, gas, and other necessary utility service for the Common Area and, to the extent not separately metered and charged, for the Units;
- B. A policy or policies of fire insurance with extended coverage endorsement for the full insurable replacement value of the Units and Common Area, payable as provided in Article XXI herein, or such other fire and casualty insurance as the Board shall determine gives substantially equal or greater protection to the Co-Owners, and their mortgagees, as their respective interests may appear;
- C. A policy or policies insuring the Board and the Co-Owners and/or the Council of Co-Owners against any

liability to the public or to the Owners, their tenants and invitees, incident to the ownership and/or use of the project, and including the personal liability exposure of the Co-Owners. Limits of liability under such insurance shall not be less than \$100,000 for any one person injured, \$300,000 for any one accident, and \$50,000 for property damage. Such limits and coverage shall be reviewed at least annually by the Board and increased in its discretion. Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement where the rights of named insureds under the policy or policies shall not be prejudiced as respects his, her, or their action against another named insured:

- D. Workmen's compensation insurance to the extent necessary to comply with any applicable laws:
- E. The services of such personnel as the Board shall determine to be necessary or proper for the operation of the Common Area:
- F. Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Declaration:
- G. A fidelity bond naming the Board of Governors as principal and the unit owners as obligees in an amount equal to:
 - 1. For the first year, twice the estimated total receipts of the maintenance fund.
 - 2. For all subsequent years, twice the total receipts of the maintenance fund for the preceding year.
- H. Swimming pool and exterior painting, maintenance, repair, and all of the landscaping of the Common Area.

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and such furnishings and equipment for the Common Area as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the Common Area: provided, however, that the interior surfaces of each Unit (and the interior surfaces of other areas, the exclusive use of which is reserved to the Owner by easement) shall be painted, maintained, and repaired by the Owners thereof, all such maintenance to be at the sole cost and expense of the particular Co-Owner.

- I. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of this Declaration, provided that if such materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular units, the cost thereof shall be specifically assessed to the Owners of such Units.
- J. The Board shall also pay any amount necessary to discharge any lien or encumbrance levied against the entire property or any part thereof which may in the opinion of the Board constitute a lien against the Common Area, rather than merely against the interests therein of particular Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the costs of discharging it and any costs incurred by the

Board by reason of said lien or liens shall be specially assessed to said Owners.

- K. Maintenance and repair of any Unit, if such maintenance and repair is reasonably necessary in the discretion of the Board to protect the Common Area or preserve the appearance and value of the project, and the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Owner or Owners, provided that the Board shall levy a special assessment against the condominium of such Owner or Owners for the cost of said maintenance or repair.

In addition, the Board shall be empowered to designate parking spaces for the exclusive use of the Owners of condominium units. Once designated, such parking spaces may not be changed except by unanimous vote of the Board.

XIII

LIMITATIONS ON BOARD'S POWER

- A. The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund, capital additions and improvements (other than for purposes of replacing portions of the Common Area, subject to all of the provisions of this Declaration) having a cost in excess of \$1,000.00, except as expressly provided herein.
- B. Nothing herein shall authorize the Board to furnish any person with services primarily for the convenience of the Owners or of any occupants of any Unit, or of the Common Area or any portion thereof, other than services customarily rendered in connection with the rental

of a space for occupancy only.

XIV OWNERS' OBLIGATION TO REPAIR

Except for those portions which the Board is required to maintain and repair hereunder, if any, each Owner shall, at his sole cost and expense, maintain and repair his Unit, keeping the same in good condition and appearance.

XV MAINTENANCE FUND: ASSESSMENTS

- A. Procedure With thirty (30) days prior to the beginning of each calendar year the Board shall estimate the net charges to be paid during such year, including a reasonable provision for contingencies and replacements with adjustments made for any expected income and surplus from the prior year's fund. Such estimated cash requirement shall be assessed to the Owners, except that Grantor shall be liable for payment of any assessment against condominiums owned by Grantor. If the estimated assessment proves inadequate for any reason, including the nonpayment of an assessment by an individual Owner, the Board may at any time levy a further assessment, which shall be assessed to the Owners in like proportions, unless otherwise provided herein. Each Owner shall be obligated to pay assessments made pursuant to this paragraph to the Board in equal monthly installments on or before the first day of each month during the year, or in such other reasonable manner as the Board shall designate.
- B. Exercise by Grantor The rights, duties and functions of the Board set forth in this paragraph may be exercised by Grantor for the period ending thirty (30) days after the election of the first Board hereunder, at the option of the first elected Board.
- C. Use of Funds All funds collected hereunder shall be expended for the purpose designated herein.

D. Nonwaiver No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her condominium, and any unpaid assessments shall constitute a lien on the condominium.

XVI

MORTGAGE PROTECTION

A. Subordination of Liens Notwithstanding all other provisions in this Declaration, liens created hereunder upon any condominium shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Article XV hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an Owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein.

B. Amendments No amendment of this Article shall affect the rights of the holder of any such mortgage recorded prior to the recordation of such amendment who does not join in the execution thereof.

XVIII

LIMITATIONS ON THE USE OF UNITS AND COMMON AREA

A. No Owner shall occupy or use his Unit, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence, provided, however, that this shall not prevent an owner from leasing said premises to non-owners for use as a private residence.

B. There shall be no obstruction of the Common Area.

Nothing shall be stored in the Common Area without the prior consent of the Board except as hereinafter expressly provided or in designated storage areas.

- C. Nothing shall be done or kept in any Unit or in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Unit or in the Common Area which will result in the cancellation of insurance on any Unit or on any part of the Common Area, or which would be in violation of any law. No waste will be committed in the Common Area. (No gasoline, kerosene, cleaning solvents or other flammable liquids shall be stored in the Common Area or in any condominium, provided, however, that reasonable amounts in metal containers may be stored in the storage spaces.)
- D. No sign of any kind shall be displayed to the public view on or from any Unit or the Common Area without the prior written consent of the Board.
- E. No animals, livestock, or poultry of any kind shall be raised, bred, or kept in the Unit or in the Common Area, except that dogs, cats, or other household pets may be kept in Units, subject to the rules and regulations adopted by the Board.
- F. No noxious or offensive activity shall be carried on in any Unit or in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners.
- G. Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Board.
- H. There shall be no violation of the rules for the use of the Common Area, adopted by the Board and furnished in

writing to the Owners, and the Board is authorized to adopt such rules.

- I. No Owner shall park any automobile or other motor vehicle in the Common Area except in a space designated for the Owner by the Board.
- J. None of the rights and obligations of the Owners created herein, or by the deed creating the condominiums shall be altered in any way by encroachments due to settlement or shifting of structure(s) or any other cause. There shall be valid easements for the maintenance of such encroachments so long as they shall exist: provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners.
- K. Grantor's Exemption: Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Grantor, its agents, assigns, brokers, salesmen, and contractors of the buildings, structures and improvements to maintain during the period of construction and sale thereof, such facilities and to conduct such activities on the Properties as in the sole opinion of said Grantor may be reasonably required, convenient or incidental to the development and sale of units upon the Properties, including without limitation, a business office, storage area, construction yards, signs, billboards, model units and sales office.

XVIII

ENTRY FOR REPAIRS

The Board or its agents may enter any Unit when necessary in connection with any maintenance, landscaping, or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the Owners as is practicable, and any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund.

XIX

EASEMENTS

A. Utilities There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities serving the Properties, including, but not limited to, water, sewers, gas telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain wires, circuits and conduits on, above, across and under the roofs and exterior walls of the improvements on the Properties. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated except as initially programmed, approved or marketed by Grantor. This easement shall in no way affect any other recorded easements on said premises.

B. In addition, it is hereby granted to all apartment unit owners reciprocal easements for that portion of the Common Area that shall be used for the duct work, control wiring and plumbing, leading from the apartment to the refrigeration unit.

XX

EXCLUSIVE OWNERSHIP AND POSSESSION BY OWNER

Each Owner shall be entitled to exclusive ownership and possession of his Unit. Each Owner shall be entitled to an undivided interest in the Common Area in the percentage expressed in paragraph 11, page 2, of this Declaration. The percentage of the undivided interest of each Owner in the Common Area as expressed in paragraph 11, page 2, of this Declaration shall have a permanent character and shall not be altered without the consent of all Owners expressed in an amended Declaration duly recorded. The percentage of the undivided interest in the

Common Area 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 Owner may use the Common Area in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners.

An Owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, basement floors, (upper) top story ceilings, windows and doors bounding his Unit, nor shall the Owner be deemed to own the utilities running through his Unit which are utilized for, or serve more than one Unit, except as a tenant-in-common with the other Owners. An Owner, however, shall be deemed to own and shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, basement floors, (upper) top story ceilings, windows and doors bounding the Unit.

XXI

DAMAGE AND DESTRUCTION

If the project is damaged by fire or other casualty and such damage is limited to a single Unit, all insurance proceeds shall be paid to the Owner or Owners, mortgagee or mortgagees of the Owner or Owners, as their respective interests may appear and such Owner or Owners, mortgagee or mortgagees, subject to any agreements between the Owner and mortgagees relating to application of insurance proceeds, shall use the same to rebuild or repair such Unit in accordance with the original plans and specifications therefor. If such damage extends to two or more Units, or extends to any part of the Common Area:

- A. Such insurance proceeds shall be paid to a bank, savings and loan association, trust company, or other corporation authorized to act as escrow agent pursuant to the laws of the State of Arizona, which company shall be referred to here as the insurance trustee, to be held for the benefit of the Owners and the mortgagees

as their respective interests may appear. The Board is authorized to enter on behalf of the Owners into such agreement, consistent with this Declaration, with such insurance trustee, related to its powers, duties and compensation as the Board may approve.

- B. The Board shall obtain firm bids (including the obligation to obtain a performance bond) from two or more responsible contractors to rebuild the project in accordance with its original plans and specifications and shall, as soon as possible thereafter, call a special meeting of the Voting Owners to consider such bids. If the Board fails to do so within sixty (60) days after the casualty occurs, any Owner may obtain such bids, and call and conduct such meeting as herein provided (failure to call such meeting, or to repair such casualty damage, within twelve (12) months from the date such damage occurred shall be deemed for all purposes a decision not to rebuild said building). At such meeting, the Owners may by sixty-six and two-thirds per cent ($66 \frac{2}{3}\%$) vote elect to reject all such bids and thus not to rebuild, or by fifty-one per cent (51%) vote elect to reject all such bids requiring amounts more than Five Hundred Dollars (\$500.00) in excess of available insurance proceeds. Failure to reject all bids shall authorize the Board to accept the unrejected bid it considers most favorable.
- C. If a bid is to be accepted, the Board shall levy a special assessment, in proportion to the interest of each Owner in the Common Area, to make up any deficiency between the total insurance proceeds and the contract price for such repair or rebuilding and such assessment and all insurance proceeds, whether or not

subject to liens of mortgagees, shall be paid to said insurance trustee to be used for such rebuilding. If any Owner shall fail to pay the special assessment within thirty (30) days after the levy thereof, the Board shall make up the deficiency by payment from the maintenance fund. Upon payment, the Board shall let the contract to the successful bidder:

- D. Upon an election not to rebuild, the Board, as soon as reasonably possible and as agent for the Owners, shall sell the entire Project, in its then condition, free from the effect of these Restrictions, which shall terminate upon such sale, on terms satisfactory to the Board. The net proceeds, and all funds held by said insurance trustee, shall thereupon be distributed to the Owners in proportion to the interest of each Owner in the Common Area, and to the mortgagees of the interest of the Owners, as their interests may appear.

If the Owners decide not to rebuild, either by calling a meeting and rejecting all bids presented or by failing to call such a meeting and failing to repair such damage within twelve (12) months after the damage occurs, then the Manager, or the Board, or if they do not, any Owner or mortgagee of any Owner, shall record a sworn declaration setting forth such decision and reciting that under the provisions of these Restrictions the prohibition against judicial partition provided for in Paragraph VII hereof has terminated and that judicial partition of the Project may be obtained pursuant to the law of the State of Arizona. Upon final judgment of a court of competent jurisdiction decreeing such partition, these Restrictions shall terminate.

The provisions of this Article cannot be amended without the consent in writing of the Owner or seventy-five per cent (75%) of the Condominium Units.

XXII

CHANGES IN THE COMMON AREA

There shall be no structural alterations, capital additions to, or capital improvements of the Common Area requiring an expenditure in excess of One Thousand Dollars (\$1,000.00) without the prior approval of Owners holding a majority of the total votes.

XXIII

AUDIT

Any Owner or mortgagee holding a first mortgage lien on any of the property subject to this declaration may at any time and at his own expense cause an audit or inspection to be made of the books and records of the Board. The Board, at the expense of the maintenance fund, shall obtain an audit (by an independent accountant or accounting firm) of all books and records pertaining to the project at no greater than annual intervals and furnish copies thereof to the Owners within thirty (30) days of receipt of such audit by the Board.

XXIV

AMENDMENT

Except as otherwise provided herein, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by record Owners holding seventy-five per cent (75%) of the total vote hereunder, which amendment shall be effective upon recordation in the Office of the Recorder of the County of Maricopa.

XXV

INUREMENT

The restrictions and burdens imposed by the covenants of this Declaration constitute a general scheme for the benefit of all the Unit Owners in the buildings on the property above described and all of such restrictions and covenants shall inure to the benefit of, shall benefit, and shall be enforceable by every person, partnership, association or corporation who now or at any time hereafter owns title or any interest of any kind in or to said property, and all of such restrictions and covenants shall be binding upon every person, partnership, association or corporation who now or at any time hereafter owns or has any interest in said property. All covenants in this Declaration are intended to and shall constitute covenants running with the land or

equitable servitudes upon the land, as the case may be, and are intended to and shall be binding upon any present or future owner of any interest in and to said property.

Failure by anyone to enforce any condition, restriction, covenant or changes herein contained shall not constitute a waiver of the right to do so thereafter.

Violation of any of the restrictions or conditions or breach of any of the covenants or agreements herein contained shall give to the Board of Governors and the Council of Co-Owners the right to enter a unit in or as to which said violation or breach exists and summarily to abate and remove at the expense of the owner of said unit any construction, thing or condition that may be or exist thereon contrary to the provisions hereof without being deemed guilty of any manner of trespass. Every action or omission whereby any restriction or covenant is violated, in whole or in part, shall render it lawful for the Board of Governors or the Council of Co-Owners, or in the event either the Board of Governors and the Council refuses to act, a Voting Owner or encumbrancer, to prosecute any proceedings at law or at equity against the person or persons violating or attempting to violate any such covenant or restriction and either to prevent him or them from so doing or to recover damages for such violation. Should any such suit be instituted, the owner of said unit agrees to pay a reasonable attorney's fee for the plaintiff's attorney as that fee may be fixed by the Court.

XXVI

SEVERABILITY

The provisions hereof shall be deemed to be independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

XXVII

INTERPRETATION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the

development and operation of a condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

XXVIII

MORTGAGEES

Any reference herein to the mortgagees, or reference to rights of that party entitled to the benefits accruing to the holder of the first mortgage lien shall be deemed to include the trustee and/or beneficiary with respect to this condominium.

XXIX

LIMITATION OF LIABILITY

The liability of any Owner for performance of any of the provisions hereof shall terminate upon sale, transfer, assignment, or other divestiture of said Owner's entire interest in his or her condominium with respect to obligations arising hereunder from and after the date of such divestiture.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 3 day of January, 1975

J. CLARK, INC., an Arizona corporation,


JAY WARREN CLARK, President


JOHN R. DUNDEE, Vice President

001109847 204

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this, the 8 day of JANUARY, 1975 before me, the undersigned officer, personally appeared JAY WARREN CLARK, who acknowledged himself to be the President of J. CLARK, INC., an Arizona corporation, and that he, as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Gene Johnson
NOTARY PUBLIC

My Commission Expires:

8/8/75

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this, the 8 day of JANUARY, 1975 before me, the undersigned officer, personally appeared JOHN R. DUNDEE, who acknowledged himself to be the Vice President of J. CLARK, INC., an Arizona corporation, and that he, as such Vice President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Vice President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Gene Johnson
NOTARY PUBLIC

My Commission Expires:

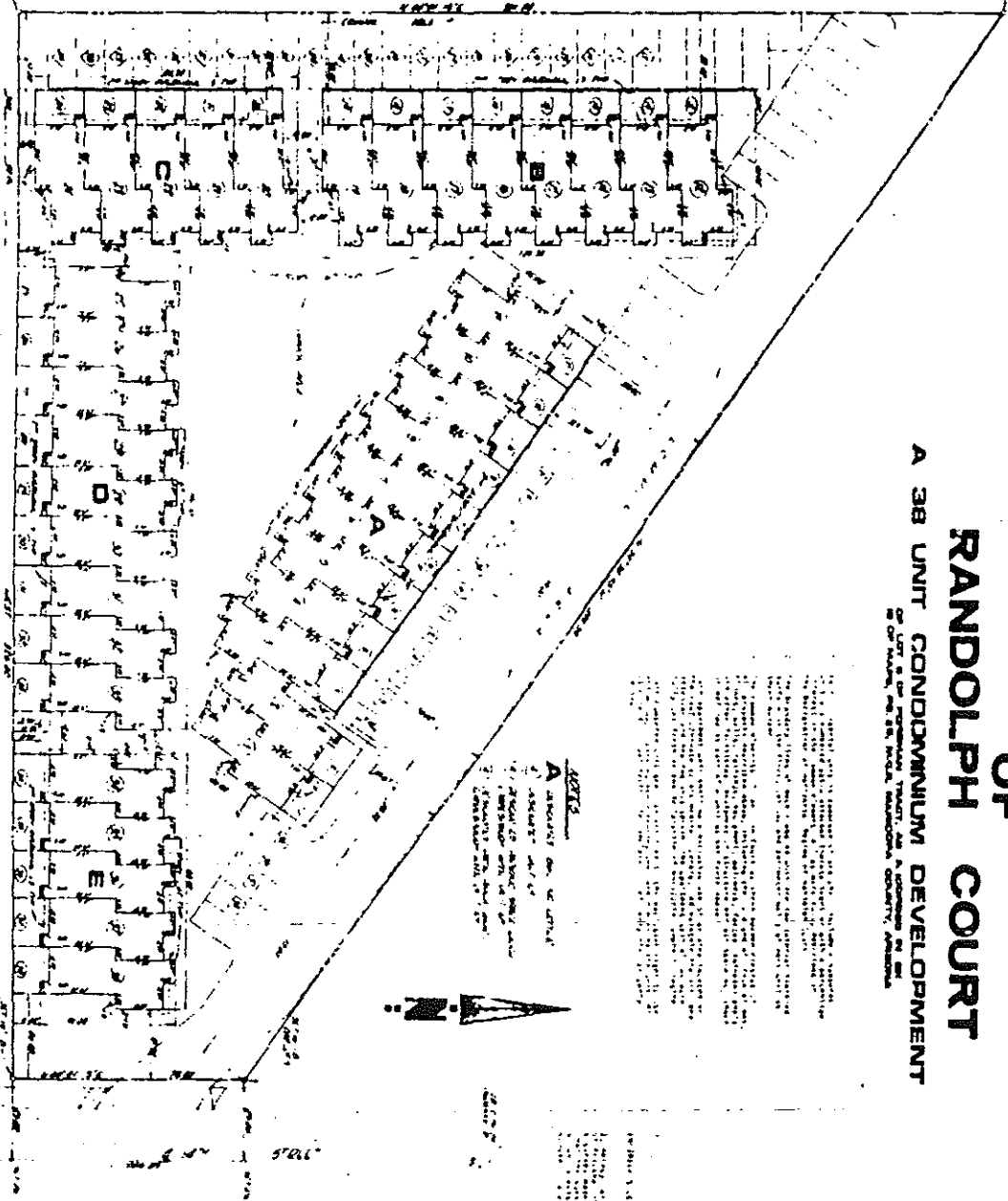
8/8/75

ESS

HORIZONTAL REGIME MAP OF RANDOLPH COURT

A 38 UNIT CONDOMINIUM DEVELOPMENT
IN THE CITY OF RICHMOND, VIRGINIA

EXHIBIT "A"



NOTES:
 1. ALL UNITS ARE TO BE BUILT TO THE SAME STANDARD.
 2. THE ARCHITECT HAS ASSUMED RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
 3. THE ARCHITECT HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS NOT BEEN ADVISED OF ANY OBSTACLES OR CONDITIONS WHICH MAY AFFECT THE DEVELOPMENT.
 4. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE SITE OR TO THE DEVELOPMENT SINCE THE DATE OF THE ORIGINAL DESIGN.

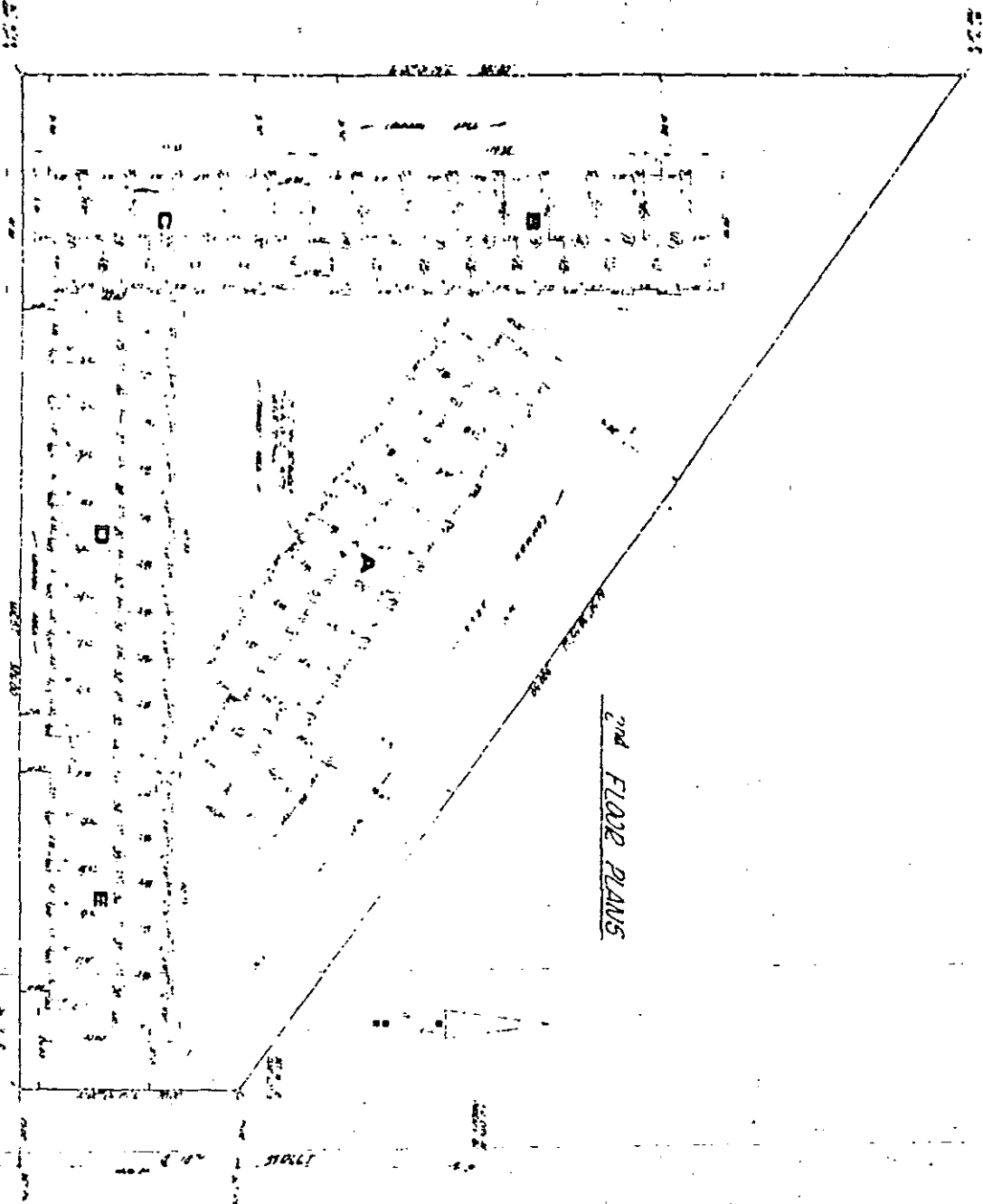
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1ST FLOOR PLANS

© 1988 HICKS & CO.

CIVIL ENGINEERING, INC.



2ND FLOOR PLANS

CIVIL ENGINEER
 No. 10000
 State of Arizona
 License No. 10000

STATE OF ARIZONA } ss
 County of Maricopa }
 I hereby certify that the within instrument was filed and recorded at request of
Minnesota Title Company
 JAN 8 1975-2 13
 in Docket **10984**
 on page **191 - 206**
 Witness my hand and official seal the day and year aforesaid.
 Tom Freestone
 County Recorder
 By R. Brink
 Deputy Recorder

ENHRTT

12.50