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INST. NO 2004

LANCASTER COUNTY, NE

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DECLARATION  
OF  
CONTINENTAL COMMONS

The undersigned ("Owner") is the record titleholder of the subject real estate and intends with this Declaration to create and establish the Continental Commons Condominium in the manner provided for in the Nebraska Condominium Act, Neb. Rev. Stat. § 76-825 to 76-894 as it may be amended from time-to-time ("Act").

1. DEFINITIONS.

The terms used in this Declaration shall have the meanings stated in the Act, unless otherwise defined. Additional and supplemental definitions are as follows:

A. "Allocated Interest" means the undivided interest in the Common Elements and the Common Expense Liability, allocated to each Unit.

B. "Articles" means the Articles of Incorporation of the Association as they may be amended from time-to-time.

C. "Association" means the Continental Commons Condo Association, a Nebraska nonprofit corporation.

D. "Board" or "Board of Directors" means the governing body of the Association.

E. "Building" means the existing improvements constructed on the Property and containing the Units and Commons as shown on the Plats and Plans.

F. "Bylaws" means the Bylaws of the Association as they may be amended from time-to-time.

G. "Class of Units" means the three designated classes of Units as defined and described in this Declaration and as shown on the Plats and Plans. Those classes are as follows:

- i. Residential Units. The Units listed in Exhibit "A" and more particularly described in the Plats and Plans as "Residential Units".
- ii. Floor Units. The Units listed in Exhibit "A" and more particularly described in the Plats and Plans as "Floor Units".

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PO Box 81686  
68501

- iii. Street Unit. The Unit listed in Exhibit "A" and more particularly described in the Plats and Plans as the "Street Unit".

H. "Common Elements" collectively refers to the General Commons and Limited Commons as defined below:

- i. General Commons. All portions of the Project not shown, designated or described in this Declaration or the Plats and Plans as either a Unit or Limited Commons.
- ii. Limited Commons. Those portions of the Project which are not a Unit and are shown, designated or described in this Declaration, the Plats and Plans or by the Board as being primarily for the use or benefit of an individual Unit or a particular Class of Units.

I. "Common Expenses" means the expenses or liabilities incurred by the Association for the administration, operation, and management of the Project pursuant to the requirements imposed upon the Association by this Declaration.

J. "Common Expense Liability" means the liability for Common Expenses allocated to each Unit.

K. "Condominium Documents" means this Declaration, the Articles, the Bylaws and the Rules and Regulations.

L. "Declaration" means this document, and the attached exhibits and Plats and Plans, together with any future amendments which may be recorded pursuant to the Act.

M. "Guest" means a family member, agent, employee, tenant, guest, licensee, or invitee of an Owner, and any person claiming by, through, or under such Owner.

N. "Managing Agent" means the person employed by the Board to perform the management and operational functions of the Project.

O. "Member" means every individual or entity who is a record Owner of a fee or undivided fee interest in any Unit. Contract sellers of a Unit shall be considered a Member unless they transfer the membership to the contract buyer and provide written notice of the contract and membership transfer to Managing Agent. If the ownership of a Unit is held in more than one name, the Owners shall designate one person for voting purposes ("Voting Member").

There shall be three classes of membership in the Association:

- i. Residential Member. The Owner of a Residential Unit is a Residential Member.
- ii. Floor Member. The Owner of a Floor Unit is a Floor Member.
- iii. Street Member. The Owner of a Street Unit is a Street Member.

P. "Mortgage" means any mortgage, deed of trust, or other document pledging a Unit as security for the payment of a debt or obligation.

Q. "Mortgagee" means any person, corporation, partnership, trust, company, association, or other legal entity which takes, owns, holds, or receives a Mortgage.

R. "Owner" means any individual, corporation, partnership, association, or other legal entity, holding legal title to a Unit, but does not include any such person or entity having an interest solely as a Mortgagee.

S. "Plats and Plans" are attached as Exhibit "B."

T. "Project" means the condominium created by this Declaration.

U. "Rules and Regulations" means the rules and regulations adopted by the Board pursuant to the terms of the Bylaws, as they may be amended from time-to-time.

V. "Unit" is that portion of the Project shown or designated in the Plats and Plans for individual ownership and having a separate identifying number. The boundaries of a Unit shall be the walls, floors, or ceilings and any materials constituting any part of those finished surfaces.

2. NAMES. The name of the Project is Continental Commons. The name of the Association is Continental Commons Association, a nonprofit corporation.

3. DESCRIPTION. The Project is situated in Lancaster County on the following described real estate:

Lots 7 and 8, Block 41, Original Lincoln, Lancaster County, Nebraska ("Property").

4. BOUNDARIES. The boundaries of each Unit are as shown in the Plats and Plans and stated in the definition of a Unit.

5. COMMON ELEMENTS. The Common Elements are as stated in the definition of Common Elements. The "Limited Commons" specifically include the following:

A. Access Limited Commons. The stairwells, vestibules and elevator which provide ingress and egress for the Residential Units and Floor Units to the ground floor exits of the Building are Limited Commons allocated to the Residential Units and the Floor Units.

B. Fifth Floor Patio. The Fifth Floor Patio as shown on the Plats and Plans and all of its improvements, plantings, furniture and fixtures are Limited Commons allocated to the Residential Units on the Fifth Floor and its use and operation shall be governed by the Rules and Regulations. The Association may rent the Patio for private functions to a Fifth Floor Residential Unit Owner or tenant under lease for recreational, social or business purposes, based upon the usage and fee structure as adopted in the Rules and Regulations.

C. Fifth Floor Commons. The Fifth Floor Commons are those areas as shown on the Plats and Plans that are provided for the exclusive benefit of the Fifth Floor Residential Units and include the hallway, utility/electrical room, storage and trash areas located on the Fifth Floor of the Building

and are Limited Commons allocated to the Residential Units located on the Fifth Floor of the Building.

D. Fourth Floor Commons. The Fourth Floor Commons are those areas as shown on the Plats and Plans that are provided for the exclusive benefit of the Fourth Floor Residential Units and include the hallway, utility/electrical room, storage and trash areas located on the Fourth Floor of the Building and are Limited Commons allocated to the Residential Units located on the Fourth Floor of the Building.

E. Street Unit Commons. The Street Unit Commons include those portions of the basement in the Building used by the Street Unit together with the exterior commercial signage on the Building as well as any currently existing or future right or interest which may be granted by the City of Lincoln, Nebraska to utilize the public sidewalk right -of-way adjoining the Building for any advertising, display or other commercial purpose such as a sidewalk café or street vending and are Limited Commons allocated to the Street Unit.

6. ALLOCATED INTERESTS. The allocated interests are shown on Exhibit "A." The formula used to establish the allocated interests for the Building is the total square footage of each floor. The formula used to establish the allocated interests for individual or subdivided units on any floor of the Building shall be the actual square footage occupied by the Unit. The same formulas shall be used to revise the allocated interests in the event any Units are created, added to, withdrawn or boundaries of a Unit are changed.

7. CONVEYANCES. Any Unit may be conveyed or encumbered subject to the provisions of this Declaration.

8. SUBDIVISION. With the written approval of the Board, Units may be combined or divided and incorporated within the boundaries of one or more other Units. Upon approval, the Executive Board shall record an Amendment to this Declaration including the Plats and Plans, and the Allocated Interests shown on Exhibit "A" shall be reallocated. The expense of preparation of the Amendment, reallocation of the Allocated Interests, and recording fees shall be paid in advance or assessed against the Units affected.

9. USE OF COMMON ELEMENTS AND EASEMENTS.

A. General Commons. Each Owner shall have the right to use the General Commons for their intended purpose and shall have an easement over the General Commons for that use.

B. Limited Commons. Each Owner shall have the right to use any Limited Commons assigned to their Unit and shall have an easement over the assigned Limited Commons for that use.

C. Support Easement. Each Unit and the Common Elements shall have an easement for lateral and subjacent support from every other Unit and Common Elements.

D. Encroachment Easement. In the event any Unit or Common Element was constructed so as to or due to reconstruction or movement of the Building, does encroach upon an adjoining Unit or the Common Elements, the Owner, of the Unit or the Association, if it is a Common

Element, shall have an easement upon the adjoining Unit or Common Elements to the extent of the encroachment.

E. Association Easement. The Association, Board Managing Agent, their employees, agents and contractors shall have a blanket access and use easement throughout the Project, specifically including any Unit which may be necessary or desirable to enable the Association, Board or Managing Agent to perform their obligations and duties under the Condominium Documents.

F. Easements Over Common Elements The Board may grant easements, leases, licenses and concessions over the Common Elements for the installation and maintenance of utilities and service to the Units and for such other purposes as may be necessary or desirable to enable the Association, Board or Managing Agent to perform their obligations and duties under the Condominium Documents.

#### 10. ASSOCIATION MEMBERSHIP.

A. Membership. Every person or entity who becomes an Owner shall be a member of the Association. Any person or entity who holds an interest merely as security for an obligation shall not be a member.

B. Voting. One (1) vote may be cast for each Residential Unit for the election of members to the Board and other matters to be voted upon by the Association membership. Each Floor Unit shall be entitled to five (5) votes and the Street Unit which shall have six (6) votes.

#### 11. ADMINISTRATION AND MANAGEMENT.

A. Duty of Board. The administration and management of the Project shall be the responsibility of the Board whose actions shall be governed by the Condominium Documents. The Board shall dutifully manage the Project for the mutual benefit of all Owners.

B. Management Contracts. The Board is authorized to enter into such contracts or other agreements necessary or desirable for the performance of its duties and obligations under the Condominium Documents. It is expressly contemplated that the Board will continue to contract for professional property management for the day-to-day administration and operations of the Association. The person or entity who holds the management contract, or such other person designated by the Board shall be the Managing Agent for the Association.

C. Annual Budget. The Board shall adopt an annual budget for the Project and within thirty (30) days of its adoption provide a summary of the budget to all Unit Owners and establish a meeting date for its ratification as provided for in the Bylaws. The budget shall be deemed ratified unless rejected by two-thirds of all the votes in Association. In the event the budget is not ratified, the last annual budget shall be continued until the Unit Owners ratify a new budget proposed by the Board.

#### 12. USE AND OCCUPANCY.

A. Residential Units. The Residential Units on floors four and five, and the Third Floor Unit shall be occupied and used only as residential dwellings and for no other purpose.

B. Second Floor Unit. The Second Floor Unit may be occupied and used for commercial uses permitted by the City of Lincoln for the Property under its zoning ordinance.

C. Street Unit. The Street Unit shall be occupied and used only for the commercial uses permitted by the City of Lincoln zoning ordinance.

D. Change of Unit Classification. The Second Floor Unit or any part of it may be converted to a Residential Unit at the election of its Owner, provided the Owner of the Unit shall pay the expenses of preparing and recording any necessary amendment to the Declaration including the Plats and Plans. The Board may evaluate and approve any other requests for a change in use provided it finds that the proposed change in use will have no material adverse impact on the Owners and occupants of the other Units for the Project.

E. Rental of Units. An Owner may lease any Unit to a tenant. The tenant and Owner shall be fully responsible for all obligations to the Association pursuant to the Condominium Documents. In the event of any such lease, the Owner shall notify the Managing Agent of the name, address and phone number of the Tenant.

F. Nuisance. No noxious or offensive activity shall be permitted within the Project, or anything which is an annoyance or nuisance or which endangers the health or unreasonably disturbs the quiet of the occupants of adjoining Units. The Board may adopt in its Rules and Regulations specific requirements to control and remedy any nuisance.

G. Legal Compliance. The Project and each Unit shall comply with and observe all laws, zoning and building code requirements, and other rules, regulations and requirements of governmental bodies having jurisdiction over the Project.

H. Pets. No animals of any kind shall be kept in any Residential Unit for any purpose. The only exception to this prohibition is as follows: the Third Floor is currently rented to the State of Nebraska, which provides housing there for the visually impaired; a few of the visually impaired residing on the Third Floor have used "seeing eye" dogs for short period of time, and "seeing eye" dogs are not prohibited by this provision.

### 13. MAINTENANCE, REPAIRS, IMPROVEMENTS, REPLACEMENTS AND SERVICES.

A. Units. Each unit shall be maintained by the Unit Owner at the Unit Owner's sole cost and expense. Notwithstanding this general provision for maintenance, the Board may adopt specific maintenance requirements which requirements shall be uniform as to each Class of Units. In the event any Unit Owner fails or refuses to maintain their Unit, the Association may perform the required maintenance and assess the costs against the Unit and Unit Owner.

B. Limited Commons. The Limited Commons shall be maintained by the Association for the benefit of the Owners with an interest in the Limited Commons. The cost of such maintenance and repair shall be a Common Expense of the Owners with an interest in the Limited Commons.

C. General Commons. The General Commons shall be maintained by the Association for the benefit of all Owners. The cost of such maintenance and repair shall be a Common Expense of all Owners.

D. Negligent or Intentional Damage. An Owner shall be solely responsible for any damage anywhere in the Project caused by an Owner or an Owner's Guest's negligent or intentional actions. The Association shall have the option of repairing or replacing any such damage and all costs and expenses incurred by the Association for the replacement or repair shall be treated as an assessment on the responsible Owner's Unit. In the event insurance covers any portion of the expenses or costs, the Owner shall be responsible for the balance.

E. Owner Approval. The Board shall not need the prior approval of the Association to cause such maintenance, repairs, additions, alterations or improvements to be accomplished; provided, however, there shall be no additions or improvements (including, but not limited to, the addition of recreational facilities and security measures or facilities) of or to the Project requiring an expenditure in excess of five thousand dollars (\$5,000.00) per expenditure nor in excess of twenty thousand dollars (\$20,000.00) in the aggregate in any one calendar year without the prior approval of Owners representing a majority of the Allocated Interests unless the addition or improvement was included in the adopted annual budget. The Members of the Association shall have the right to change these amounts by adoption of a resolution without amending this Declaration.

F. Association Services. The Association shall provide to the Owners the following services which shall be paid for out of the Common Expense assessment, to wit:

- i. except as otherwise specifically provided in the Declaration, exterior maintenance and repairs of the Building and other improvements situated within the Common Elements (excluding washing windows and cleaning screens for Units);
- ii. administration and management of the Project, including the following:
  - (1) enforcement of the covenants, conditions, and restrictions set forth in the Condominium Documents, together with enforcement of all obligations owed to the Association by the Owners, and
  - (2) performing all other acts required of the Association by the Condominium Documents;
- iii. except as otherwise provided, inspection, maintenance, and repair of: walkways; walkway lighting; Common Elements; exterior lighting (except commercial signs); shrubbery, and landscaping;
- iv. trash removal from designated collection points as determined by the Board;
- v. utility services for those utilities not separately metered for any Unit; and
- vi. except as otherwise provided herein, inspection, maintenance, and repair of all utility lines and facilities lying within the Project which are not inspected, maintained, and repaired by the supplier of such service or other entity.

G. Notwithstanding the above, the Association reserves the right to hire one or more persons or entities, including a Managing Agent, contractors, and employees, to perform such services; provided, however, that any contract in regard to the hiring or employing of such

Managing Agent, contractors or employees, shall conform with Paragraph 11.B (Management Contracts) hereof.

14. COMPLIANCE WITH PROVISIONS OF THE CONDOMINIUM DOCUMENTS.

A. Each Owner by acceptance of a deed or other instrument of conveyance or assignment, and each Guest by entry upon the Project, agrees to comply strictly with the provisions of the Condominium Documents, and the decisions and resolutions of the Association, as the same may be amended from time to time. The Association, or in a proper case, an aggrieved Owner, shall have the power to enforce the provisions of the Condominium Documents, and the decisions and resolutions of the Association. The Association shall take such action as the Board deems necessary or desirable to cause such compliance by each Owner and his/her Guests. The Association shall have the power to enforce the provisions of the Condominium Documents, and the decisions and resolutions of the Association, by any one or more of the following means:

- i. by commencing and maintaining actions to restrain and enjoin any breach or threatened breach of the provisions of the Condominium Documents, or decisions and resolutions of the Association, by permanent injunction or otherwise;
- ii. by commencing and maintaining actions to recover damages for breach of any of the provisions of the Condominium Documents, or decisions and resolutions of the Association;
- iii. by exclusion, suspension, probation or limitation of use, after notice and hearing as provided in the Bylaws, of any Owner or his/her Guest from use of certain Common Elements during and for up to sixty (60) days following any breach of the Condominium Documents, or decisions and resolutions of the Association, by such Owner or his/her Guest, unless the breach is a continuing breach in which case such exclusion, suspension, probation or limitation of use shall continue for so long as such breach continues;
- iv. by levying and collecting from any Owner, after notice and an opportunity for hearing as provided in the Bylaws, reasonable and uniformly applied nondiscriminatory fines, penalties and assessments established in advance in the Bylaws or in the Rules and Regulations of the Association for breach of the Condominium Documents, or decisions and resolutions of the Association and its Board by such Owner or his/her Guest. Owners shall have the power to enforce the provisions of the Condominium Documents against the Association.

B. All attorneys' fees and other costs of enforcing the Condominium Documents, or decisions and resolutions of the Association, incurred by the Association, or, in a proper case by an aggrieved Owner, shall be assessed against the Owner found to be in violation, and such assessment shall become a lien against such Owner's Condominium Unit and shall be enforced and collected in the same manner as all other assessments.



C. The conveyance or encumbrance of a Condominium Unit shall be deemed to be made subject to all of the provisions of the Condominium Documents, and shall be binding upon such grantee or Mortgagee without the necessity or inclusion of such express provision in the instrument of conveyance or encumbrance.

15. ASSESSMENT FOR COMMON EXPENSES.

A. All Owners shall be obligated to pay the estimated and actual assessments imposed by the Association to meet the Common Expenses and reserves. Assessments shall be based upon the Allocated Interests of the Units as established in Exhibit "A."

B. Annual assessments for the estimated Common Expenses shall be payable in monthly installments and shall be due in advance on the first day of each calendar month. The Association shall cause to be prepared and delivered or mailed to each Owner at least once each year a payment statement setting forth the estimated Common Expense assessments for the ensuing year.

C. In the event the ownership of a Condominium Unit, title to which is derived from the Declarant, commences on a day other than the first day of the assessment period, the Common Expense assessments for that period will be prorated.

D. Common Expense assessments shall be based upon the cash requirements deemed to be such aggregate sum as the Board shall determine in its budget, at least thirty (30) days in advance of each fiscal year, as necessary to provide for the payment of all estimated expenses relating to or connected with the administration, maintenance, ownership, repair, operation, addition, alteration, and improvement of the Common Elements, the Project, and personal property owned by the Association. Said sum may include, but shall not be limited to, expenses for management; premiums for insurance; landscaping and care of grounds; common lighting; utilities not separately metered on behalf of each Unit and the Common Elements; repairs and renovations; trash collection; wages; legal and accounting fees; management fees; expenses and liabilities incurred by the Board on behalf of the Owners under or by reason of the Condominium Documents; the creation of reasonable contingency reserves, working capital, and/or sinking funds; and any and all other costs and expenses relating to the Common Elements and/or the Project. The costs of insurance may at the discretion of the Association be assessed in proportion to risk. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board.

E. Each Owner shall be obligated to pay all charges for any separately metered utilities, including but not limited to electricity, gas, and cable television, servicing his/her Condominium Unit. In the event that any utilities are master metered, then such utility service shall be part of the Common Expense assessments as hereinbefore provided and shall be allocated to the Units benefiting from such service, depending upon the manner in which they are separately metered.

F. The omission or failure to fix the assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification, or release of the Owner from the Owner's obligations to pay the same.

G. The Association, at the discretion of the Board, may establish a reserve fund for the maintenance, repairs, additions, alterations, improvements and replacement of those Common Elements that must be replaced periodically and such reserve fund shall be funded through the payments of the Common Expenses. Any deficiencies may be handled in the assessments for the subsequent year or through special assessments as provided in the following subparagraph.

H. In addition to the assessments authorized above, the Association may at any time and from time to time determine, levy, and assess in any assessment year, which determination, levy, and assessment may be made by the Board with the consent by vote or agreement of fifty-one percent (51%) of the Board, a special assessment applicable to that particular assessment year for the purpose of defraying, in whole or in part, payments for any deficit remaining from a previous period and the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolition, replacement, or maintenance of the Common Elements, specifically including any related fixtures and personal property. The amounts determined, levied, and assessed pursuant hereto shall be divided among all of the affected and benefitted Units in proportion to the affected and benefitted Unit's Allocated Interest, and shall be due and payable as set forth in the Notice of Assessment promulgated by the Board.

I. The Board may at any time, from time to time and without the Member's consent, determine, levy and assess in any assessment year a special assessment on any Unit for specific items, tools, or service performed for or delivered to said Unit by the Association or the Managing Agent on behalf of the Association (i) under a contract(s) between the Unit Owner or the tenant under lease and the Association or Managing Agent on behalf of the Association for goods, services, or repairs; (ii) due to the failure of the Unit Owner or its Guests to perform or deliver such items, tasks or services as required by the Condominium Documents; and (iii) due to the actions, intentional or negligent, of the Unit Owner or its Guests which causes damage anywhere in the Project.

J. In addition to the regular and special assessments authorized by this Paragraph, the Association may levy penalty assessments which will include penalties or fines imposed against individual Owners for violations of the provisions of the Condominium Documents. Any such penalty assessments will be levied only after a notice and hearing as set out in the Bylaws. The Association may also impose reasonable charges for the preparation and recordation of amendments to this Declaration, resale certificates that may be required, or statements or liens of unpaid assessments. All penalties and said charges shall be treated as an assessment to said Unit and payment therefor shall be enforced and collected in the same manner as all other assessments, provided for herein.

K. All Owners of a particular Unit shall be jointly and severally liable to the Association for the payment of all assessments attributable to such Unit, including the annual assessment for Common Expenses and special and penalty assessments assessed against their particular Condominium Unit.

L. All assessments required herein not paid on or before ten (10) days after the date when due shall bear interest at the maximum rate established by law, unless otherwise determined by the Board of Directors, from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due.

16. LIEN FOR NONPAYMENT OF ASSESSMENTS.

A. All sums assessed by the Association but unpaid by the Owner of any Unit, including interest, shall constitute a lien on such Unit prior to all other liens and encumbrances, except only for (i) liens and encumbrances recorded before the recordation of this Declaration, (ii) a Mortgage recorded before the date on which the assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Each Owner hereby agrees that the Association's lien on a Unit for assessments shall be superior to any homestead exemption provided by any state or federal law and each Owner agrees that the acceptance of the deed or other instrument of conveyance in regard to any Unit within the Project shall signify such grantee's waiver of such homestead rights with respect to such lien.

B. To evidence such lien for unpaid assessments, the Association shall prepare a written notice setting forth the amount, the name of the Owner of the Unit, and a description of the Unit. Such notice shall be signed on behalf of the Association by an officer of the Association and shall be recorded in the records of the Register of Deeds of the County. Such lien shall attach from the date of the failure of payment of the assessment, and may be enforced by foreclosure by the Association of the defaulting Owner's Unit in like manner as mortgages on real property, but the Association shall give reasonable prior notice of its action to all lien holders of the Unit whose interest would be affected. The lien shall be in favor of the Association and for the benefit of all of the Owners. In any such foreclosure or lawsuit to recover a money judgment, the Owner shall be required to pay the costs and expenses of such proceedings, the costs, expenses, and attorneys' fees for filing the notice or claim of lien, and all reasonable attorneys' fees in connection with such foreclosure or lawsuit. The Owner shall also be required to pay the Association the assessments for the Unit during the period of foreclosure. The Association, on behalf of the Owners, shall have the power to bid on the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey such Unit. In any foreclosure of a lien for assessments, the Association shall be entitled to the appointment of a receiver.

17. OWNER'S OBLIGATION FOR PAYMENT OF ASSESSMENTS.

All amounts assessed by the Association against each Condominium Unit, whether as a Common Expense, special, or penalty assessment, shall be the personal and individual debt of each Owner at the time the assessment is made. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the assessment. No Owner may exempt themselves from liability for the Owner's contribution toward the Common Expenses by a waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit.

18. RESALE OF UNIT; LIABILITY FOR COMMON EXPENSES UPON TRANSFER OF CONDOMINIUM UNIT.

A. Unless exempt by the Nebraska Uniform Condominium Act, a Unit Owner and any other person in the business of selling real estate who offers for resale a Unit to a purchaser shall furnish to the purchaser before conveyance a copy of this Declaration (other than the Plats and Plans), the Bylaws, the Rules or Regulations of the Association, and the following information ("Information Certificate"):

- i. A statement setting forth the amount of the monthly Common Expense assessment and any unpaid Common Expense or special assessment currently due and payable from the selling Unit Owner;
- ii. Any other fees payable by Unit Owners;
- iii. The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association;
- iv. The current operating budget of the Association, if any;
- v. A statement that a copy of any insurance policy provided for the benefit of Unit Owners is available from the Association upon request; and
- vi. A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof.

The Association, within ten (10) days after a request by a Unit Owner, shall furnish in writing the information necessary to enable the Unit Owner to comply with the Nebraska Uniform Condominium Act (§ 76-884).

A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the Information Certificate prepared by the Association.

B. Upon payment of a reasonable fee to be set out in the Rules and Regulations, and upon the written request of any Owner, any purchaser or prospective purchaser, any Mortgagee, or any prospective Mortgagee, the Association shall issue the Information Certificate described above, with respect to such Condominium Unit, and if requested, the amount of the current monthly assessment and the date that such assessment becomes due, and any credits for advanced payments or for prepaid items, including, but not limited to, insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for the Information Certificate shall be complied with within ten (10) days, all unpaid Common Expenses which become due prior to the date of making such request shall be subordinate to the interest of the Owner, purchaser or prospective purchaser requesting such Information Certificate, or to the lien of the Mortgagee or prospective Mortgagee requesting such Information Certificate.

C. The grantee of a Unit, including a Mortgagee with a superior lien who comes into possession of a Unit pursuant to the remedies provided in its Mortgage or becomes an Owner of a Unit pursuant to foreclosure of its Mortgage or by the taking of a deed in lieu, and any purchaser at a foreclosure sale, shall not be liable with the grantor for unpaid assessments against the latter for the grantor's proportionate share of expenses up to the time of the grant or conveyance of a Condominium Unit, unless the purchaser expressly assumes such liability. Any uncollectible Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Unit Owners, including the Mortgagee, purchaser and their successors or assigns. The waiver of liability granted herein for the payment of past due assessments shall not apply to any Owner who holds a purchase money mortgage or land contract.

19. ALTERATIONS OF UNITS.

A. Except as limited by other provisions of law, a Unit Owner:

- i. may make any improvements or alterations to a Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium;
- ii. may not change the appearance of the Common Elements, or the exterior appearance of a Unit or any other portion of the Condominium, without permission of the Board; and
- iii. after acquiring an adjoining Unit or an adjoining part of an adjoining Unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

B. Except as authorized in this Declaration or by the Rules and Regulations, no Owner shall make any structural additions, removals or alterations to a Unit; or alter or remove or extend any mechanical or electrical services servicing a Unit; or permit the use of any mechanical or electrical device, equipment or attachment, or take any other such action that would affect, impair, disturb or damage the property of any other Owner or other Owner's right to the use and enjoyment of their Unit; or alter, damage or impair any property owned and/or maintained by the Association. Except as authorized by the Rules and Regulations, no proposed addition, removals or alterations, by an Owner of a Unit, shall be commenced without obtaining written approval of the Board of Directors, or the Managing Agent. A request for such approval shall be accompanied by a copy of plans and specifications for the proposed work which the Association may request to be prepared by an architect or engineer licensed to practice in the State of Nebraska and such approval when granted, shall be subject to the assumption by the Owner of all responsibility for any damage to property or persons.

20. MORTGAGING A CONDOMINIUM UNIT - PRIORITY.

Any Owner shall have the right from time to time to mortgage or encumber his interest in a Unit by a Mortgage or other security interest.

21. INSURANCE.

The Board shall obtain and maintain on behalf of the Association at all times, to the extent obtainable, insurance policies with amounts and the coverage to be determined by the Board as defined by the Nebraska Uniform Condominium Act and in the Bylaws; the cost of the insurance shall be assessed to the Unit Owners in the manner set out in the Bylaws; provided, however, liability insurance, including medical payments insurance, shall be maintained in an amount not less than \$1,000,000.

22. TORT AND CONTRACT LIABILITY.

Notwithstanding the duty of the Association to maintain and repair parts of the Condominium, the Association shall not be liable to Owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the Property to be maintained and repaired by the Association, or caused by natural elements or other Owners or persons.

23. CONDEMNATION.

If part of the General Commons is acquired by eminent domain, the portion of the award attributable to the General Commons taken must be paid to the Association. Any portion of any award attributable to the acquisition of Limited Commons must be allocated among the Owners of the Units to which the Limited Commons benefitted at the time of acquisition.

24. DESTRUCTION.

Any damage to the Condominium caused by a partial taking through eminent domain, fire or other casualty shall be promptly repaired by the Association in the manner set forth in the Bylaws, unless (i) the Condominium is terminated, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) eighty percent (80%) of the votes in the Association, by vote or agreement, including every Voting Member of a Unit or assigned Limited Commons which will not be rebuilt, decide not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Condominium is not repaired or replaced, (i) the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (ii) the insurance proceeds attributable to Units and Limited Commons which are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Limited Commons benefitted, or the lienholders, as their interests may appear, and (iii) the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Allocated Interests of all the Units.

25. ADDITIONAL PROPERTY FOR COMMON USE.

The Association may acquire and hold for the benefit of the Owners real property and tangible and intangible personal property, and the beneficial interest in any such property shall be owned by the Condominium Owners in the same proportion as their Allocated Interest in the Common Elements and shall not be transferable except with the transfer of a Condominium Unit. Each Owner may use such real and personal property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners.

26. FIFTH FLOOR PATIO.

The Fifth Floor Patio as shown on the Plats and Plans and all of its improvements, plantings, furniture and fixtures are Limited Commons allocated to the Fifth Floor Residential Units and its use and operation shall be governed by the Rules and Regulations. The Association may rent the Patio for private functions to a Fifth Floor Residential Unit Owner or tenant under lease for recreational, social or business purposes, based upon the usage and fee structure as adopted in the Rules and Regulations.

27. REGISTRATION BY OWNER OF MAILING ADDRESS.

Each Owner shall register his/her mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid and addressed in the name of the Owner of such registered mailing address.

28. AMENDMENT TO DECLARATION.

A. Procedure. Except as provided by § 76-854 of the Nebraska Uniform Condominium Act and this Declaration, this Declaration may be amended only by vote or agreement of Members of Units of which at least eighteen (18) of the votes in the Association are allocated. If a vote is taken at an Association meeting, notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered. Resolutions for the adoption of a proposed amendment may be proposed by either the Board or by the Members of the Association.

B. One Year. No action to challenge the validity of an amendment adopted by the Association pursuant to this paragraph may be brought more than one year after the amendment is recorded.

C. Recordation. Every amendment to the Declaration must be recorded in the office of the Register of Deeds of Lancaster County, and is effective only upon recordation.

D. Amendments. Amendments to the Declaration required by the Nebraska Uniform Condominium Act to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the President of the Association.

29. TERMINATION.

A. Except in the case of a complete taking of all the Units of the Condominium Project by eminent domain, the Condominium may be terminated only by agreement of the Owners of Units to which at least twenty-one (21) of the votes of the Association are allocated.

B. An agreement to terminate must be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by Owners of Units to which at least twenty-one (21) of the votes of the Association are allocated. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. The termination agreement shall be effective only upon recordation in the office of the Register of Deeds of Lancaster County. The Uniform Condominium Act shall govern any termination.

30. GENERAL.

A. If any of the provisions of the Condominium Documents or any paragraph, sentence, clause, phrase, or word, or the application thereof in any circumstances shall be invalidated, such invalidity shall not affect the validity of the remainder of the Condominium Documents, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstance shall not be affected thereby.

B. The provisions of the Condominium Documents shall be in addition and supplemental to the Nebraska Uniform Condominium Act and to all other provisions of law, and the provisions of such Act shall apply in the event of conflict with, or omission from, Condominium Documents of provisions required by the Nebraska Uniform Condominium Act.

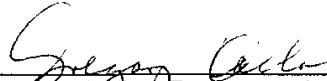
C. In the event there shall be any conflict between the provisions of this Declaration and the Articles, Bylaws or Rules and Regulations of the Association, the provisions of this Declaration shall be controlling.

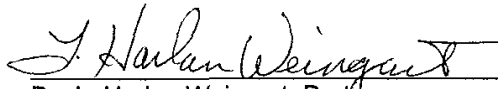
D. Whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders.

<sup>April</sup>  
Dated ~~March~~ 20, 2004.

DECLARANT/OWNER

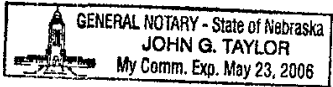
Kalwein Partnership, a Nebraska general partnership

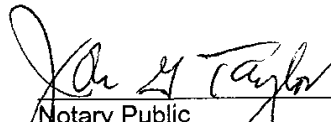
  
By: Gregory Kallos, Partner, and

  
By: L. Harlan Weingart, Partner

STATE OF NEBRASKA            )  
  ) ss:  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 20 day of <sup>April</sup>~~March~~, 2004, by Gregory Kallos, Partner of Kalwein Partnership, a Nebraska general partnership, on behalf of the partnership.



  
Notary Public



STATE OF NEBRASKA            )  
  ) ss:  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 20 day of ~~March~~ <sup>April</sup>, 2004, by L. Harlan Weingart, Partner of Kalwein Partnership, a Nebraska general partnership, on behalf of the partnership.

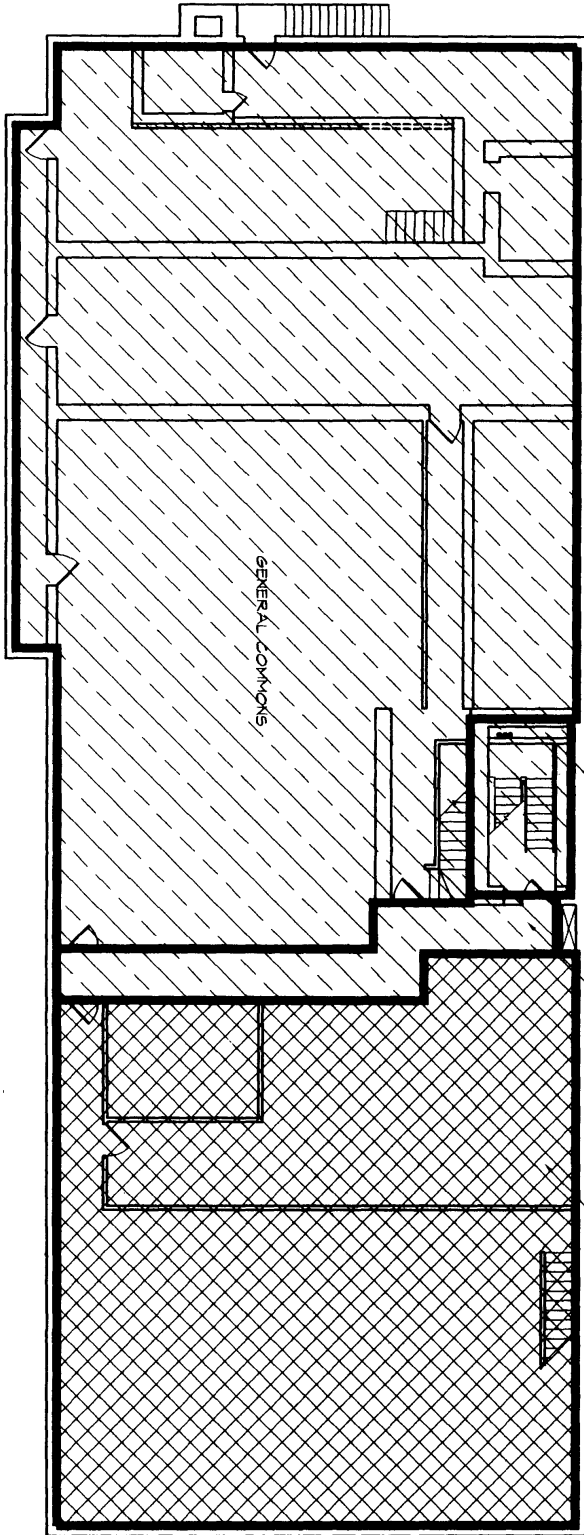


*John G. Taylor*  
\_\_\_\_\_  
Notary Public

## EXHIBIT "A"

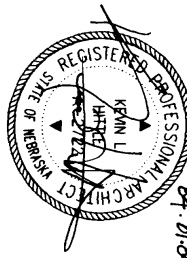
<u>Unit/Floor Description</u>	<u>Floor and Residential Unit</u>		<u>Building</u>	<u>Association Votes</u>
	<u>Square Footage</u>	<u>Allocated Interest Percentage</u>	<u>Allocated Interest Percentage</u>	
<u>Fifth Floor</u>	7,436	20.00%		
Unit 501	879	15.22%	3.04%	1
Unit 502	1,291	22.35%	4.47%	1
Unit 503	1,054	18.24%	3.65%	1
Unit 504	1,386	23.99%	4.80%	1
Unit 505	<u>1,167</u>	<u>20.20%</u>	<u>4.04%</u>	1
Unit Total	5,777	100.00%	20.00%	
<u>Fourth Floor</u>	7,436	20.00%		
Unit 401	879	15.22%	3.04%	1
Unit 402	1,291	22.35%	4.47%	1
Unit 403	1,054	18.24%	3.65%	1
Unit 404	1,386	23.99%	4.80%	1
Unit 405	<u>1,167</u>	<u>20.20%</u>	<u>4.04%</u>	1
Unit Total	5,777	100.00%	20.00%	
<u>Third Floor</u>	7,436	20.00%		
Unit 300	n/a		20.00%	5
<u>Second Floor</u>	7,436	20.00%		
Unit 200	n/a		20.00%	5
<u>First Floor (Street Unit)</u>	7,436	20.00%		
Unit 100	n/a		20.00%	6
<b>Totals</b>	37,180		100.00%	26

**BASEMENT FLOOR PLAN**

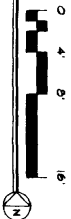


HATCH LEGEND	
	ACCESS LIMITED COMMONS
	GENERAL COMMONS
	STREET UNIT COMMONS
	UNITS

I CERTIFY, TO THE BEST OF MY KNOWLEDGE, THIS FLOOR PLAN IS ACCURATE ACCORDING TO THE ORIGINAL RENOVATION DESIGN DOCUMENTS COMPLETED IN YEAR 1997 THROUGH 2001.



07.01.04



**A01**  
 SHEET TITLE: PLAN  
 SHEET NO.: BASMENT  
 SHEET TOTAL: 16

PROJECT NO.	REVISIONS	DATE	DESCRIPTION
641		04/09/04	

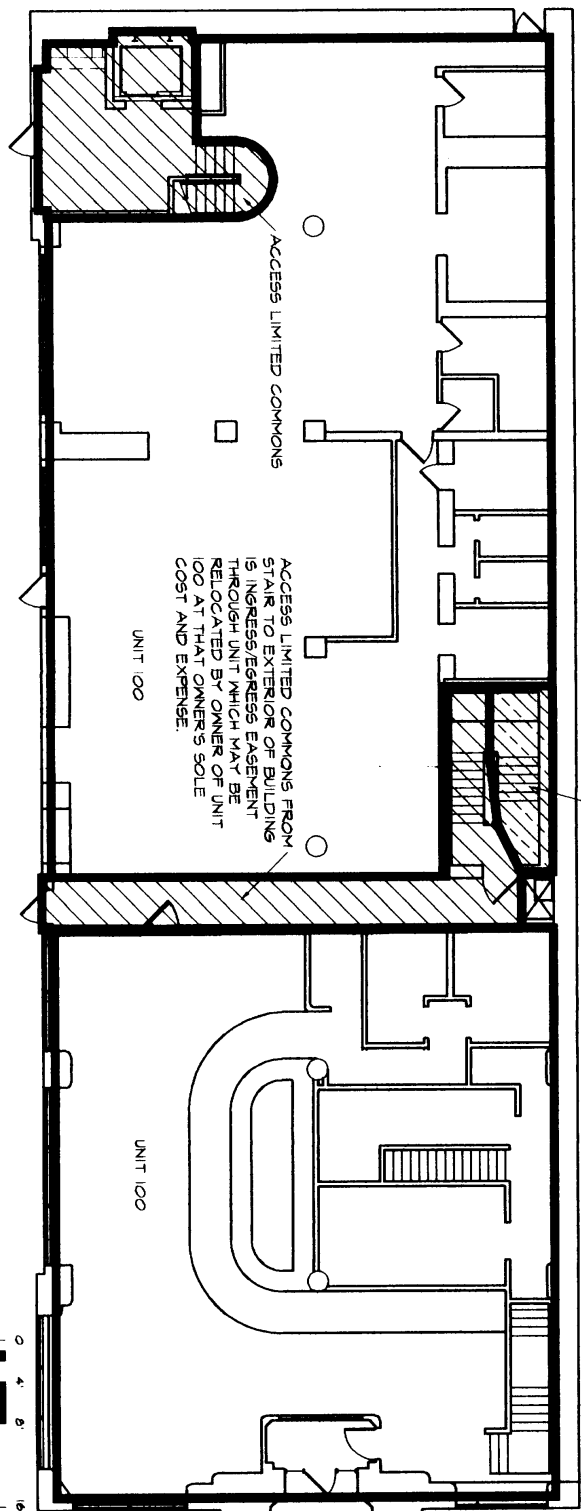
PROJECT NO.	REVISIONS	DATE	DESCRIPTION
641		04/09/04	

**CONTINENTAL COMMONS**  
 122 NORTH 11th STREET  
 LINCOLN, NEBRASKA

**SCHOENLEBER, SHREINER & HITTLE**  
 Architecture and Construction Consulting Services  
 123 So. 84th, Suite A, Lincoln, Nebraska 68510  
 (402) 483-2863  
 FAX: (402) 483-6499 E-MAIL: csj@ssh-arch.com



**FIRST FLOOR PLAN**

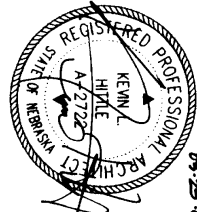


ACCESS LIMITED COMMONS FROM STAIR TO EXTERIOR OF BUILDING IS INGRESS/EGRESS EASEMENT THROUGH UNIT WHICH MAY BE RELOCATED BY OWNER OF UNIT 100 AT THAT OWNERS SOLE COST AND EXPENSE.

NOTE: STAIRWAY UP FROM FIRST FLOOR IS ACCESS LIMITED COMMONS. STAIRWAY DOWN FROM FIRST FLOOR IS GENERAL COMMONS.

HATCH LEGEND	
	ACCESS LIMITED COMMONS
	GENERAL COMMONS
	FIRST FLOOR COMMONS (NONE)
	UNITS

I CERTIFY TO THE BEST OF MY KNOWLEDGE, THIS FLOOR PLAN IS ACCURATE ACCORDING TO THE ORIGINAL RENOVATION DESIGN DOCUMENTS COMPLETED IN YEAR 1997 THROUGH 2001.



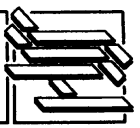
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**PROJECT DESCRIPTION:**    **DATE:**  
**PROJECT LOCATION:**    **DATE:**  
**PROJECT NO. 641**    **REVIEWED BY:**    **DATE: 03/25/04**  
**PROJECT DESCRIPTION:**    **DATE:**  
**PROJECT LOCATION:**    **DATE:**

**PROJECT NO. 641**    **REVIEWED BY:**    **DATE: 03/25/04**  
**PROJECT DESCRIPTION:**    **DATE:**  
**PROJECT LOCATION:**    **DATE:**

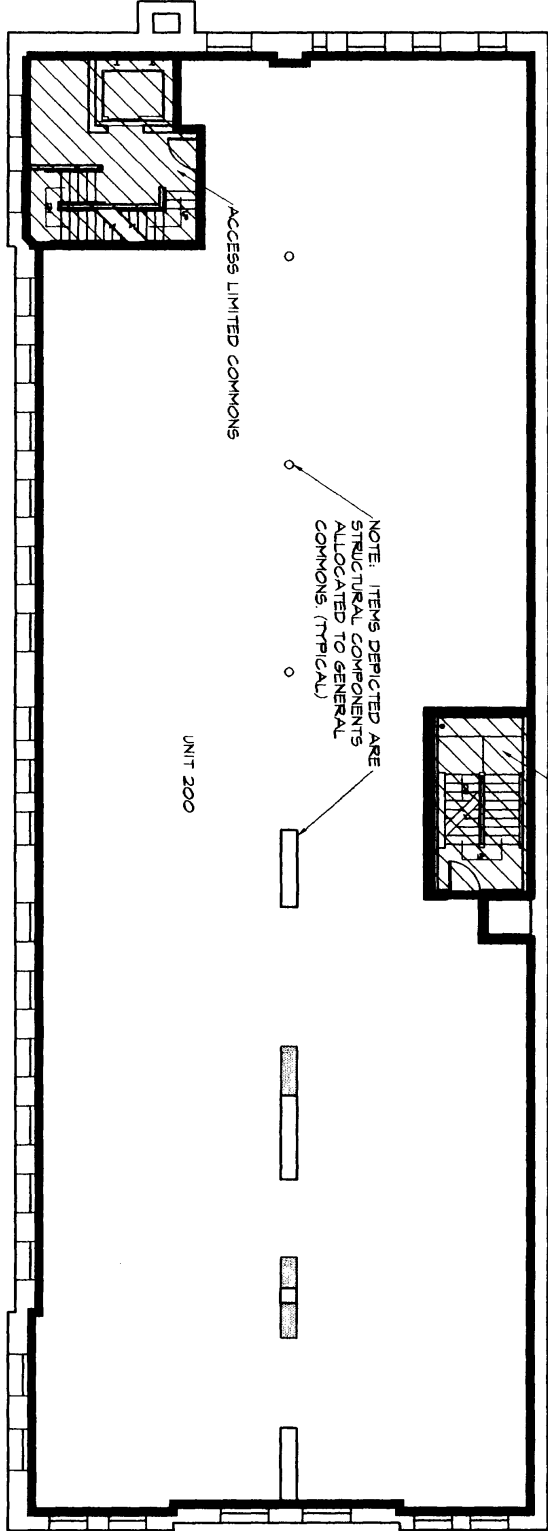
**CONTINENTAL COMMONS**  
**122 NORTH 11th STREET**  
**LINCOLN, NEBRASKA**

**SCHOENLEBER, SHRINKER & HITTLE**  
 Architecture and Construction Consulting Services  
 123 So. 84th, Suite A, Lincoln, Nebraska 68510  
 (402) 483-2893  
 FAX: (402) 483-6498    E-MAIL: [cor@ssh-arch.com](mailto:cor@ssh-arch.com)

I, **KEVIN A. HITTLE**, Registered Professional Architect, State of Nebraska, License No. A 2722, certify that this floor plan is accurate according to the original renovation design documents completed in year 1997 through 2001.

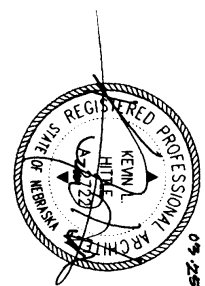


**SECOND FLOOR PLAN**



HATCH LEGEND	
	ACCESS LIMITED COMMONS
	GENERAL COMMONS
	SECOND FLOOR COMMONS (NONE)
	UNITS

I CERTIFY, TO THE BEST OF MY KNOWLEDGE THIS FLOOR PLAN IS ACCURATE ACCORDING TO THE ORIGINAL RENOVATION DESIGN DOCUMENTS COMPLETED IN YEAR 1997 THROUGH 2001.



PROJECT NO. 833  
 SHEET NO. 12  
**A2.0**

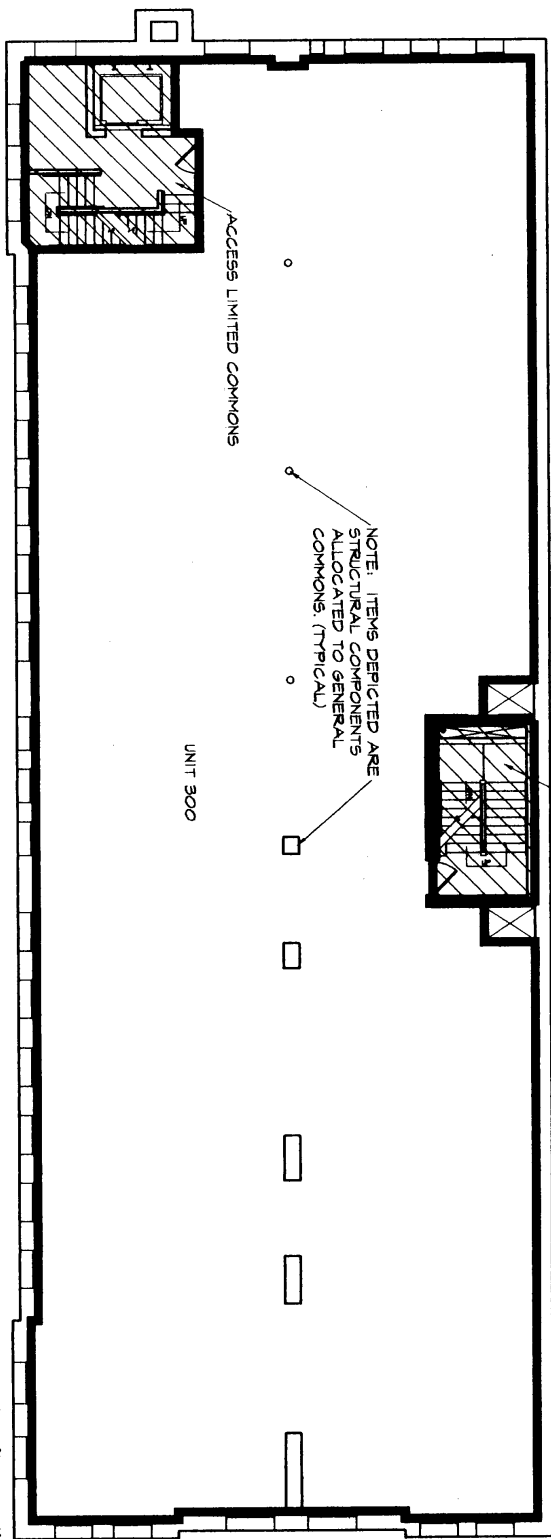
NO.	DESCRIPTION	DATE

**CONTINENTAL COMMONS**  
 122 NORTH 11th STREET  
 LINCOLN, NEBRASKA

**SCHOENLEBER, SHRINER & HITTLE**  
 Architecture and Construction Consulting Services  
 123 So. 64th, Suite A, Lincoln, Nebraska 68510  
 (402) 483-2893  
 FAX: (402) 483-8499 E-MAIL: corp@ssh-arch.com

DATE: 08/25/04  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 PROJECT: Continental Commons  
 SHEET: A2.0

THIRD FLOOR PLAN

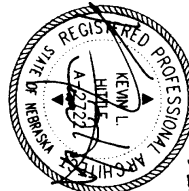


**HATCH LEGEND**

ACCESS LIMITED COMMONS	
GENERAL COMMONS	
THIRD FLOOR COMMONS (NONE)	
UNITS	

I CERTIFY TO THE BEST OF MY KNOWLEDGE THIS FLOOR PLAN IS ACCURATE ACCORDING TO THE ORIGINAL RENOVATION DESIGN DOCUMENTS COMPLETED IN YEAR 1997 THROUGH 2001.

05/25/04



PROFESSIONAL SEAL

Kevin L. Hittler, Registered Professional Architect, State of Nebraska, License No. A-07271

**A30**

PROJECT NO: 641	REVIEWED BY:	DATE: 05/25/04
NO. 1		
NO. 2		
NO. 3		
NO. 4		
NO. 5		

**CONTINENTAL COMMONS**

122 NORTH 11th STREET  
LINCOLN, NEBRASKA

**SCHOENLEBER, SHREINER & HITTLE**

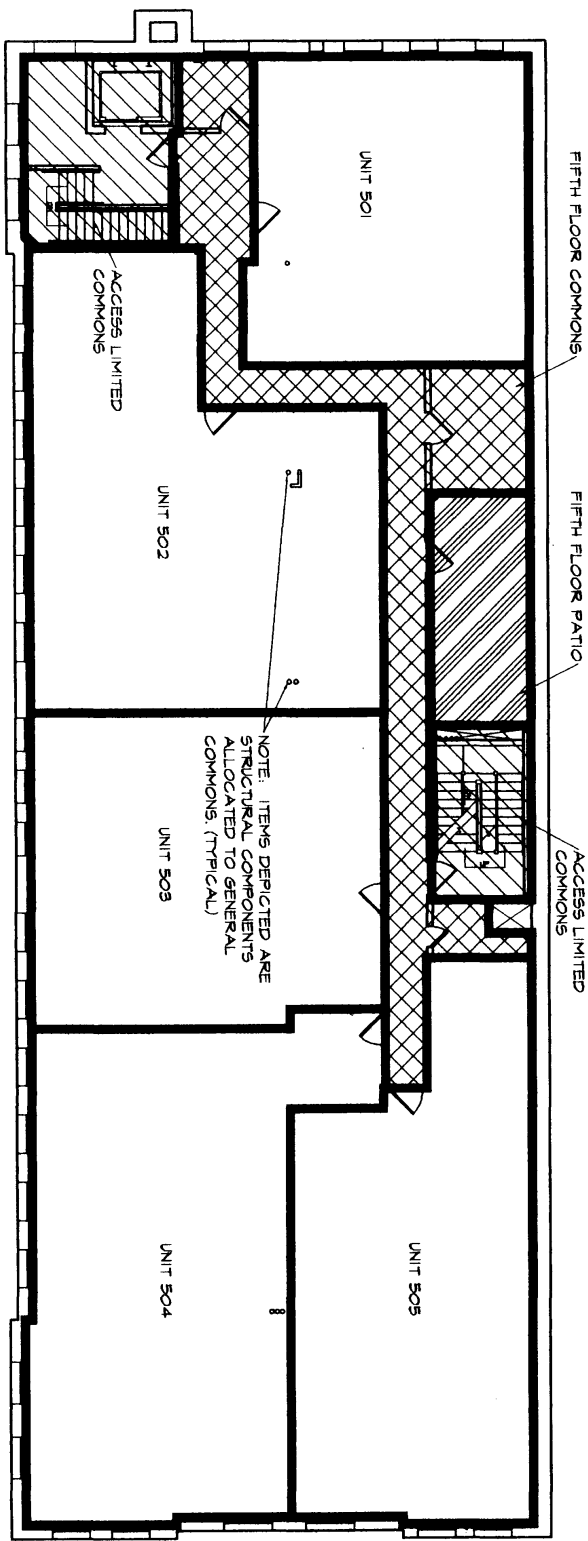
Architecture and Construction Consulting Services  
123 So. 84th, Suite A, Lincoln, Nebraska 68510  
(402) 483-2883

FAX: (402) 483-6499 E-MAIL: corp@ssh-arch.com





**FIFTH FLOOR PLAN**



HATCH LEGEND	
	ACCESS LIMITED COMMONS
	GENERAL COMMONS
	FIFTH FLOOR COMMONS
	UNITS
	FIFTH FLOOR PATIO

NOTE: ITEMS DEPICTED ARE STRUCTURAL COMPONENTS ALLOCATED TO GENERAL COMMONS, (TYPICAL)

I CERTIFY, TO THE BEST OF MY KNOWLEDGE, THIS FLOOR PLAN IS ACCURATE ACCORDING TO THE ORIGINAL RENOVATION DESIGN DOCUMENTS COMPLETED IN YEAR 1997 THROUGH 2001.



**PROFESSIONAL SEAL**  
 KEVIN A. HITTLE  
 REGISTERED PROFESSIONAL ARCHITECT  
 STATE OF NEBRASKA  
 LICENSE NO. A-2772  
**A5.0**

PROJECT NO. 011	REVIEWED BY:	DATE: 03/25/04
DESCRIPTION		DATE:

**CONTINENTAL COMMONS**  
 122 NORTH 11th STREET  
 LINCOLN, NEBRASKA

**SCHOENLEBER, SHIRNER & HITTLE**  
 Architecture and Construction Consulting Services  
 123 So. 84th, Suite A, Lincoln, Nebraska 68510  
 (402) 483-2883  
 FAX: (402) 483-6499 E-MAIL: corp@ssh-arch.com

DATE: 03-25-04

