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MASTER DEED AND DECLARATION
STUART BUILDING CONDOMINIUM PROPERTY REGIME

THIS MASTER DEED AND DECLARATION (herein "Declaration") is made this 30th day of SEPTEMBER, 1977, by Stuart Enterprises, a Nebraska partnership consisting of James Stuart, Helen C. Stuart, William Scott Stuart, James Stuart, Jr., and Catherine Stuart Schmoker, (herein called Declarant), for itself, its successors, grantees and assigns,

WITNESSETH:

1. Declaration of Purpose. The purpose of this Master Deed is to declare the desire of the Declarant to submit the lands herein described and the improvements thereon to the condominium form of ownership and use in the manner provided by Sections 76-801 and 76-823, R.R.S. 1943, Reissue 1976 (herein called Condominium Act), and the name by which this condominium is to be identified is Stuart Building Condominium Property Regime, sometimes referred to herein as the "property" or "project".

2. Description of Land. The lands owned by the Declarant which are hereby submitted to the condominium regime are a fee simple interest in lands described as follows:

Lots 4, 5 and 6, Block 39, Original Plat of Lincoln, Lincoln, Lancaster County, Nebraska, together with all tenements, hereditaments and appurtenances thereof or thereto; and

Together with all improvements thereon, and all equipment and fixtures attached thereto and used in connection therewith owned by Declarant.

3. Definitions. The definitions set forth in Section 76-802, R.R.S. 1943 shall govern this Master Deed and the attached plans and By-Laws, except that as used herein "unit" shall also mean "apartment" and "owner" shall also mean "coowner".

4. Description of Building. The condominium improvements consist of an existing twelve story office building located at 13th and "P" Streets, Lincoln, Nebraska, commonly referred to as the Stuart Building. The building contains approximately 202,320 square feet. A basement area contains most of the building's heating and cooling equipment and maintenance areas, and all floors are serviced by elevators. The 11th and 12th floors are currently a private club (University Club). A large portion of the building is devoted to the Stuart Theatre (North side, basement through the 6th floor). The balance of the building consists of office space.

5. Value, Designations, Percentages and Description of Apartments. The total value of the Stuart Building Condominium Property Regime, the basic value of each apartment together with the percentage interest in expenses, including taxes, of and rights in the common elements, the designation and approximate location of each apartment, and the voting rights in the Association appurtenant thereto are set forth in Exhibit "A" attached hereto and made a part hereof by this reference.

6. Dimensions of Apartments. Each apartment consists of that part of the building containing the apartment which lies within the boundaries of the apartment exclusive of interior load-bearing walls and pillars, and any pipes, wires, conduits, ducts, vents and other service and utility lines which are utilized for or serve more than one condominium apartment. The vertical boundaries of each apartment shall be the boundaries as shown on the condominium map attached hereto, marked Exhibit "C" and made a part hereof by this reference. Where the apartment

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is bounded by a wall, the wall shall be considered to include any door, window or other closure therein in the closed position, and the boundary shall be the unfinished surface of such wall on the apartment side, to the effect that the apartment shall include the paint, wallpaper, enamel, stain or other finishings on such surface. Where the apartment consists in whole or in part of unenclosed space, the boundary defining such space is the boundary as shown on said condominium map. The horizontal boundaries of each unit shall be the unfinished surface of the top of the concrete floor and the unfinished surface of the bottom of the concrete ceiling, except that where there is a stairway or other opening in the floor or ceiling, the boundary shall be the surface resulting from extensions of the nearest adjacent unfinished surfaces of the top of the concrete floor or the bottom of the concrete ceiling, as the case may be.

7. Nature and Incidents of Apartment Ownership.

a. Interior of Apartments. Each owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his apartment and the surfaces of all walls, ceilings, floors, and doors within such boundaries.

b. Maintenance of Apartments. Each owner shall keep the interior of his apartment, including without limitation, interior walls, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that any such apartment should develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the owner of such apartment should fail to correct such condition or state of disrepair promptly following written notice from the Association, the Association shall have the right, at the expense of the owner and without liability to the owner for trespass or otherwise, to enter said apartment and correct or eliminate said unsanitary or unclean condition or state of disrepair.

c. Right to Combine or Subdivide Apartments. With the written consent of the Association, two or more apartments may be utilized by the owner thereof as if they were one apartment or the owner may subdivide said apartments into smaller units. If any apartment shall be subdivided by the owner thereof, the basic value and percentage of common element ownership set forth herein for the apartment so subdivided shall be allocated on a pro-rata basis. To the extent permitted in the written consent of the Association, any walls, floors, or other structural separations between any two such apartments, or any space which would be occupied by such structural separations but for the utilization of the two apartments as one apartment, may, for as long as the two apartments are utilized as one apartment, be utilized by the owner of the adjoining apartments as limited common elements, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other parts of the project.

d. No Partition. The common elements shall be owned in common by all of the owners, and no owner may bring any action for partition thereof.

e. Separate Mortgages by Owners. Each owner shall have the right to mortgage or otherwise encumber his

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apartment. However, no owner shall attempt to or shall have the right to mortgage or otherwise encumber the common elements or any part thereof except the undivided interest therein appurtenant to his apartment. Any mortgage or other encumbrance shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any owner whose title is derived through the foreclosure by private power of sale, judicial foreclosure, or otherwise.

f. Mechanics Liens. No labor performed or material furnished for use in connection with any apartment with the consent or at the request of an owner or his agent or sub-contractor shall create any right to file a statement of mechanic's lien against the apartment of any other owner not expressly consenting to or requesting the same or against any interest in the common elements, except as to the undivided interests therein appurtenant to the apartment of the owner for whom such labor shall have been performed and such materials shall have been furnished.

8. Ownership of Common Elements. The undivided interest in the common elements appurtenant to each apartment shall be as set forth in Exhibit "A" attached hereto and by this reference made a part hereof. The percentages appurtenant to each apartment as shown in said Exhibit "A" shall have a permanent character and shall not be altered without the unanimous written consent of all coowners expressed in an amendment to this Declaration duly recorded. Except as otherwise provided in this Declaration, each owner shall be entitled to use the common elements (other than the limited common elements) in any manner that does not hinder or encroach upon the rights of other owners and is not contrary to any Rules and Regulations promulgated by the Association.

9. Common Elements. The common elements consist of all parts of the property other than the apartments, including, without limitation, the limited common elements and the following:

- a. Said land in fee simple;
- b. The foundations, columns, girders, beams, supports, main walls, interior loadbearing walls, pillars, roofs, flat roofs, penthouses, stairs, stairways, fire escapes and entrances and exists of the building;
- c. Central and appurtenant installations for power, light, and ventilation, and all pipes, wires, conduits, ducts, vents, and other service and utility lines which are utilized for or serve more than one condominium apartment;
- d. The elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;
- e. The sidewalk areas surrounding the building;
- f. Halls, corridors and lobbies, but only to the extent shown as common elements on said condominium map;
- g. Basement and driveways, but only to the extent shown as common elements on said condominium map;

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h. Storage spaces and premises for the use of janitors and other persons employed for the operation of the property, but only to the extent shown as common elements on said condominium map;

i. Machinery and electrical rooms;

j. All other spaces and facilities shown as common elements on said condominium map; and

k. All other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use, except to the extent specifically included in the apartments.

Each owner of an apartment may use the common elements in accordance with the purpose of which they were intended, without hindering or encroaching upon the lawful rights of the other owners, subject always to the exclusive use of the limited common elements as provided in this Declaration.

9. Limited Common Elements. "Limited common elements" shall mean those common elements as described above which are located wholly within an apartment and do not service, or are not intended to serve, other apartments in the building.

10. Easements.

a. Easements for Encroachments. If any part of the common elements encroaches or shall hereafter encroach upon an apartment, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of an apartment encroaches or shall hereafter encroach upon the common elements, or upon an adjoining apartment, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the common elements or the apartments. Encroachments referred to herein include, but are not limited to, any error in the condominium map attached hereto or by changes in position caused by repair or reconstruction of the building or any part thereof.

b. Easements for Maintenance, Cleaning, and Repair. Some of the common elements are or may be located within the apartments or may be conveniently accessible only through the apartments. The Association shall have the irrevocable right to have access to each apartment and to all common elements from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair, or replacement of any common elements located therein or accessible therefrom or for making emergency repairs at any time therein necessary to prevent damage to the common elements or to an apartment. In addition, the Association or its agents may enter any apartment when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the owners as practicable, and any damage caused thereby shall be repaired by the Association.

c. Right to Ingress, Egress, and Support. Each owner shall have the right to ingress and egress over, upon, and across the common elements as necessary for access to his apartment, and shall have the right to the horizontal, vertical, and lateral support of his apartment.

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d. Association's Right to Use Common Elements. The Association shall have an easement to make such use of the common elements as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation, the right to construct and maintain in the common elements, other than limited common elements, facilities for use by owners generally or by the Association and its agents exclusively.

e. Easements Deemed Created. All conveyances of apartments within the building hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

11. Additional Restrictions On Use and Occupancy.

a. No owner of an apartment shall do, or suffer or permit to be done, anything in any apartment which would impair the soundness or safety of the property, or which would increase the rate or result in the cancellation of insurance applicable to the property, or which would be noxious or offensive or an interference with the peaceful possession and proper use of other apartments, or which would require any alteration of or addition to any of the common elements to be in compliance with any applicable law or regulation, or which would otherwise be in violation of any statute, rule, regulation, permit or other validly imposed requirement of any governmental body.

b. No owner shall, without written approval and consent of the Board of Administrators of the Association, violate the Rules and Regulations for the use of the apartments, common elements, or other parts of the project, which may be adopted from time to time by the Association.

c. Each owner shall promptly report to the Board of Administrators any defect or need for repairs which is the responsibility of the Association.

12. The Association.

a. Stuart Building Condominium Association (herein "Association"), a Nebraska non-profit corporation, has been incorporated to provide for the management of the project. The By-Laws of the Association are attached hereto, marked Exhibit "B", and made a part hereof by this reference.

b. Each owner shall be entitled and required to be a member of the Association; membership shall begin immediately and automatically upon becoming an owner and shall terminate immediately and automatically upon ceasing to be an owner. If title to an apartment is held by more than one person, the membership appurtenant to that apartment shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which title to the apartment is held. An owner shall be entitled to one membership for each apartment owned by him. Each membership shall be appurtenant to the apartment to which it relates and shall be transferred automatically by conveyance of that apartment. Ownership cannot be separated from membership in the Association appurtenant thereto, and a transfer, encumbrance, gift, devise, bequest, or other conveyance of an apartment shall be construed to be a transfer, encumbrance, gift, devise, bequest, or other conveyance, respectively, of the owner's membership in the Association and rights appurtenant thereto.

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c. The number of votes appurtenant to each respective apartment shall be as shown in Exhibit "A" attached hereto. The number of votes appurtenant to each apartment as shown in said Exhibit "A" shall have a permanent character and shall not be altered without the written consent of all owners expressed in an amendment to this Declaration duly recorded.

13. Certain Rights and Obligations of the Association.

a. The Common Elements. The Association, subject to the rights and duties of the owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the common elements and all improvements thereon, and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however, that each owner of an apartment, shall keep the limited common elements, if any, appurtenant to his apartment in a good, clean, safe, sanitary, and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Stuart Building and the grounds. The Association shall also be responsible for maintenance, repair, and replacement of common elements within the Stuart Building, including, but not by way of limitation, hallways, elevators, utility lines, improvements, or other material located within or used in connection with the common elements. All goods and services procured by the Association in performing its responsibilities shall be paid for with funds from the owner's assessments as herein provided.

b. Miscellaneous Goods and Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the project or the enforcement of this Declaration. The Association may acquire and pay for water, sewer, garbage collection, electrical, gas and other necessary utility services for the common elements (and the apartments to the extent not separately metered), and insurance, bonds, and other goods and services common to the apartments.

c. Rules and Regulations. The Association may make reasonable Rules and Regulations governing the use of the apartments and common elements, which Rules and Regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any owner to enforce compliance with such Rules and Regulations or other obligations of owner arising hereunder, or to obtain damages for non-compliance, all to the fullest extent permitted by law.

d. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

e. Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other service to be obtained and paid for by the Association

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hereunder, or for injury or damage to person or property caused by the elements or by another owner or person in the project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Stuart Building, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place, unless caused by the gross negligence of the Association. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs, maintenance, or improvements to the project or any part thereof, or from any action taken to comply with any law, ordinance, or orders of a governmental authority.

14. Assessments.

a. Each owner, including Declarant, by acceptance of conveyance and transfer, covenants with the Association and with each other owner to pay all assessments provided for herein or in the By-Laws attached hereto. Such assessments shall provide for the payment of expenses arising out of or connected with the maintenance and operation of the common elements and utility services and other common items to the apartments; which expenses may include: expenses of management; taxes and special assessments unless or until apartments are separately assessed; premiums for insurance required or permitted to be carried by the Association; repairs and maintenance; wages; utility charges; legal and accounting fees; creation of reasonable contingency or reserve funds; and any other expenses which may be incurred by the Association for the benefit of all the owners or by reason of this Master Deed or Declaration.

b. In addition to other assessments authorized herein or in the By-Laws, the Association may levy against any owner an assessment for the purpose of paying the cost of repairing, cleaning or otherwise correcting any damage to apartments or common elements caused by intentional or negligent acts or omissions of any owner, his family, guests, invitees or licensees, and not otherwise covered by insurance carried by the Association.

c. Failure of the Association to timely fix or give notice of the assessments shall not be deemed a waiver or modification in any respect of this Master Deed or a release of the owner from the obligation to pay assessments or any installment thereof for the current or subsequent year.

15. Insurance. The Association shall obtain and keep in full force and effect the insurance coverage as required in the By-Laws. The following provisions relating to insurance shall also apply to the Association:

a. The provisions of the By-Laws shall not be construed as limiting the power or authority of the Association to obtain and maintain insurance in such amounts, and covering such risks and hazards, as the Association shall deem appropriate from time to time.

b. All policies of insurance, where applicable, shall:

(1) Name the Association, the owners of the apartments, and any mortgagee of the project, as their interests may appear.

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(2) Provide for a certificate of coverage for each owner.

(3) Provide for ten day's notice prior to cancellation.

(4) Eliminate any rights of contribution with insurance purchased by owners or their mortgagees.

(5) Provide for waiver of subrogation as to any claims against the Association or owners, and their respective servants, agents and guests.

16. Consequences of Condemnation. If at any time or times during the continuance of condominium ownership pursuant to this Declaration, all or any part of the project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply:

a. Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "condemnation award", shall be payable to the Association.

b. Complete Taking. In the event that the entire project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate and the condemnation award shall be divided among all owners in a percentage equal to the percentage of undivided interest owned by each owner in the common elements in accordance with Exhibit "A" hereto.

c. Partial Taking. In the event that less than the entire project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each owner shall be entitled to a share of the condemnation award to be determined in the following manner: As soon as practicable, the Association shall, reasonably and in good faith, allocate the condemnation award between compensation, severance damages, or other proceeds, and shall apportion the amounts so allocated among and pay the same to the owners as follows:

(1) The total amount allocated to taking of or injury to the common elements shall be apportioned among all owners in proportion to their respective undivided interest in the common elements.

(2) The total amount allocated to severance damages shall be apportioned to those apartments which were not taken or condemned.

(3) The respective amounts allocated to the taking of or injury to a particular apartment shall be apportioned to the particular apartment involved.

(4) The total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the condemnation award is already established in negotiation, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent it is relevant and applicable.

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(5) Distribution of apportioned proceeds shall be made by checks payable jointly to the respective owners and their respective mortgagees, as applicable.

d. Reorganization. In the event a partial taking results in the taking of a complete apartment, the owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall reallocate the ownership, voting rights, and assessment ratio in accordance with the Condominium Act.

e. Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in the By-Laws for damage or destruction of the project, or any part thereof.

17. Registration of Mailing Address. Each owner shall register from time to time with the Association his current mailing address and all notices or demands intended to be served upon any owner may be sent by first class U.S. mail, postage prepaid, addressed to the name of the owner at such registered mailing address, or, if no address has been registered, to the apartment of such owner. All notices or demands intended to be served upon the Association may be sent by first class U.S. mail, postage prepaid, addressed to the Association at its offices at 625 Stuart Building, Lincoln, Nebraska, 68508, or to such other address as the Association may hereafter furnish to the owners in writing. Any notice or demand referred to in this Declaration shall be deemed given when deposited in the U.S. mail in the form provided for in this paragraph.

18. Audit. Any owner may at any reasonable time, upon appointment, and at his own expense cause an audit or inspection to be made of the books and records maintained by the Association. The Association, as a common expense shall obtain an audit, by a certified public accounting firm, of all books and records pertaining to the Association.

19. Interpretation.

a. Intent and Purpose. The provisions of this Declaration and any supplemental or amended declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium. Failure to enforce any provision, restriction, covenant, or condition in this Declaration or in any supplemental or amended declaration shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

b. Construction. The provisions of this Declaration shall be in addition and supplemental to the Condominium Act and to all other provisions of law. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders. The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define, or otherwise affect the content, meaning, or intent of this Declaration or any paragraph, subparagraph, or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

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EXHIBIT "A"

TOTAL BASIC VALUE - Stuart Building Condominium Property Regime
\$8,994,848.80

<u>APARTMENT NUMBER</u>	<u>BASIC VALUE</u>	<u>COMMON ELEMENT PERCENTAGE</u>	<u>LOCATION</u>
1 a	\$2,514,461.00	27.95	Stuart Theatre-Basement through 6th Floor
1 b	55,000.00	0.617	First Floor - SW Corner
1 c	120,000.00	1.347	First Floor - West Central
1 d	100,000.00	1.124	First Floor - NW Corner
1 e	21,644.00	0.248	First Floor - NE Corner
B-1	15,000.00	0.166	Basement - West Side
B-2	10,000.00	0.111	Basement - North
B-3	25,000.00	0.277	Basement - Central
2	296,644.20	3.29	Second Floor
3	296,644.20	3.29	Third Floor
4	296,644.20	3.29	Fourth Floor
5	296,644.20	3.29	Fifth Floor
6	726,244.20	8.07	Sixth Floor
7	726,244.20	8.07	Seventh Floor
8	726,244.20	8.07	Eighth Floor
9	726,244.20	8.07	Ninth Floor
10	726,244.20	8.07	Tenth Floor
11	1,315,946.00	14.65	Eleventh and Twelfth Floors, Penthouse (University Club)
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	\$8,994,848.80	100.00	