

DECLARATION OF COVENANTS AND RESTRICTIONS

CROSS REFERENCE

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This Declaration, made as of this 6th day of April, 1981, by CLP/CLUP, Ltd., an Indiana general partnership having its principal offices at 3500 DePauw Boulevard, Indianapolis, Indiana 46268 (hereinafter called the "Declarant").

## WITNESSETH:

WHEREAS, Declarant is the owner of all of the real estate described in Article II of this Declaration (hereinafter the "Real Estate") and is this day subdividing the Real Estate, the ten single family residences, the utility facilities and the private drive presently located on said Real Estate into a subdivision consisting of ten (10) residential lots with one single family residence each located thereon, Block "A", and private facilities and driveway, known as "Hanover Grove"; and,

WHEREAS, Declarant desires to provide for the preservation of the values and amenities now existing on and under said Real Estate; and, to this end, desires to subject the Real Estate to the covenants, restrictions, easements, assessments and liens, hereinafter set forth, each and all of which is and are for the benefit of the Real Estate and each Lot Owner thereof; and,

WHEREAS, there has been incorporated under the laws of the State of Indiana, as a Not-For-Profit corporation, Hanover Grove Homeowners Association, Inc., for the purpose of exercising the functions aforesaid; and,

WHEREAS, Declarant deems it desirable, to the efficient preservation of the values and amenities of said Hanover Grove, to delegate and assign the powers of maintaining, repairing and/or replacing the "Common Facilities", as hereinafter defined, and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments to be paid to the Hanover Grove Homeowners Association, Inc., as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that the Real Estate is and shall henceforth be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, assessments and liens (hereinafter collectively referred to as the "Covenants and Restrictions") hereinafter set forth.

ARTICLE I  
Definitions

1. The following words when used in this Declaration or any supplemental Declaration hereto (unless the context shall prohibit) shall have the following meanings:

(a) "Corporation" shall mean and refer to Hanover Grove Homeowners Association, Inc.

(b) "Plat" shall mean and refer to the Plat of Hanover Grove, an addition in Marion County, Indiana recorded on the 6th day of April, 1981, as Instrument No. 81-19946 in the Office of the Recorder of Marion County, Indiana. The covenants, limitations, easements and restrictions set forth in said Plat are by this reference hereby incorporated herein.

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(c) "Common Facilities" shall mean and refer to the underground sanitary sewer system, storm sewer system, domestic water system, natural gas system, electric power system and telephone system located within the Utility Easements described in the Plat, and shall include the driveway surface and roadbed, curbing and appurtenances forming "Ripon Court", located within the Driveway Easement described in the Plat.

(d) "Lot" shall mean and refer to any numbered lot of land shown upon the Plat.

(e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot in Hanover Grove; provided, however, that "Owner" shall not include any mortgagee unless and until such mortgagee has acquired fee simple title to the Lot pursuant to foreclosure proceedings or acceptance of a Deed thereto in lieu of such foreclosure proceedings.

#### ARTICLE II

##### Property Subject To This Declaration; Block A; Duty to Maintain

1. PROPERTY SUBJECT TO THIS DECLARATION. The Real Estate which is, and shall henceforth be, held, transferred, sold, conveyed and occupied subject to this Declaration is more particularly described in Exhibit A, attached hereto and incorporated herein. Said Real Estate is currently improved with ten single family residences and the "Common Facilities". Nothing contained herein or in the Plat shall be deemed to be a requirement that any existing buildings, structures, improvements, landscaping, or other physical attributes of Hanover Grove shall be or must be altered in any way by this Declaration, the Declaration of Plat of Hanover Grove, or the filing for record of the Plat of Hanover Grove.

2. Block "A." Included within the said Plat is a certain irregularly-shaped parcel of land designated as "Block 'A'", and it is hereby declared that the use of said Block "A" is restricted to pedestrian access and landscaping maintenance only, except insofar as Block "A" may need to be entered upon for purposes not inconsistent with the uses permitted within the Utility Easements. Fee simple title to Block "A" is hereby divided into undivided one-third (1/3) interests and henceforth each of Lots 2, 3 and 4 in Hanover Grove shall be deemed to have appertaining thereto a one-third (1/3) undivided interest in Block "A". The one-third (1/3) undivided interests appertaining to each of Lots 2, 3 and 4 shall be permanent and may not be altered without the consent of all of the Owners of Hanover Grove, which consent to alteration shall be stated in a duly recorded Amendment of this Declaration. In addition, the undivided one-third (1/3) interest may not be transferred, encumbered, disposed of or separated from the Lot to which it appertains, and any purported transfer, encumbrance or other disposition is void. The undivided one-third (1/3) interest shall be considered to be conveyed or encumbered with the Lot to which it appertains even though such interest is not expressly mentioned or described in the conveyance or other instrument.

3. DUTY OF MAINTENANCE, REPAIR AND REPLACEMENT. Declarant hereby declares that the Hanover Grove Homeowners Association, Inc., or its successor, and if none, then the Owners of Hanover

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Grove collectively acting as an unincorporated association, shall henceforth have the duty to maintain, repair and/or replace each and every of the Common Facilities located on or within the Driveway Easement and the Utility Easements which are more particularly described in the Plat. Such duty or duties shall be discharged in accordance with the Plat, this Declaration, and the Articles of Incorporation and By-Laws of Hanover Grove Homeowners Association, Inc., as they may from time to time be amended. Nothing herein shall preclude or be deemed to interfere with any rights the Hanover Grove Homeowners Association, Inc. may have or acquire with respect to direct payment or reimbursement of such costs and expenses as are incurred by said Corporation in fulfilling this duty.

#### ARTICLE III

##### Membership and Voting Rights in the Corporation

1. MEMBERSHIP. Every person or entity who is a record owner of all or any part of a fee simple interest in any Lot shall be a "Member" of the Corporation, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.
2. VOTING RIGHTS. The Corporation shall have one class of Membership, which shall be a voting Membership. The Owners of the Lots shall be entitled to one (1) vote for each Lot owned. When the Owner of a Lot is comprised of more than one Member, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

#### ARTICLE IV

##### Covenant For Maintenance Assessments

1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned by it, hereby covenants and each future owner of any Lot, by acceptance of a deed or a purchase contract therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay the Corporation: (1) annual assessments and (2) special assessments for capital improvements, all such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, including attorneys' fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection and attorneys' fees thereof, as hereinafter provided, shall also be the personal obligation of the person or persons who are the Owner of such Lot at the time when the assessment became due.
2. PURPOSE OF ASSESSMENTS. The assessments levied by the Corporation shall be used exclusively for the maintenance, repair and replacement of the Common Facilities, as defined hereinabove, provided that such Common Facilities are located within the Utility Easements and Driveway Easement set forth on the Plat of Hanover Grove. Determination of the extent of such maintenance, repairs and/or replacements of Common Facilities shall be made by the Board of Directors of the Hanover Grove Homeowners Association, Inc.

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3. INITIAL ASSESSMENTS. Commencing April 1, 1981, the annual assessment shall be Seventy-Two Dollars and No Cents (\$72.00) per Lot. Before such date, the Declarant shall have contributed to the Hanover Grove Homeowners Association, Inc., and said Corporation shall have deposited in its special maintenance account, an amount equal to One Thousand Two Hundred Eighty Dollars and No Cents (\$1,280.00). Any Lot Owner who becomes such after April 1, 1981, shall pay to the Corporation on the date of purchase of said Lot an amount equal to Six Dollars and No Cents (\$6.00) times the number of months or part thereof which remain from the date of such conveyance to May 31, 1982. At the first annual meeting of the Corporation, the Members thereof shall adopt a budget for the maintenance, repair and/or replacement of the Common Facilities during the fiscal year ending March 31, 1983 and, in conjunction therewith, shall have the right to change the amount of annual assessments. The annual assessment for each Lot shall be identical. No mortgagees shall have the right to require payment of any of such assessments to it, but all such sums shall be paid over to the Treasurer of the Hanover Grove Homeowners Association, Inc. for deposit in the special maintenance account thereof. All annual assessments shall be due and payable on or before the first day of the first month following the annual meeting or such other meeting as shall be held in lieu of the annual meeting. In no event, however, shall the annual assessment be payable later than June 1 of each year and, upon the failure of the Members of the Corporation to hold an annual meeting or change the amount of annual assessment, then the amount due from each Lot Owner on June 1 of each such year shall be equal to the amount due the previous June 1. Activities of the Corporation and the determination and collection of assessments is further subject to the provisions of the Articles of Incorporation and By-Laws of the Corporation.

4. SPECIAL ASSESSMENTS. In addition to the annual assessments authorized by Section 3 of this Article, the Corporation may levy in any year special assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of all or any part of the Common Facilities; provided, however, that any such special assessment shall have the assent of seventy percent (70%) of the Owners, voting in person or by proxy, at a Special Meeting duly called for this purpose, written notice of which shall set forth the purpose of the meeting and shall be given to all Members at least six (6) days in advance of such meeting. The due date for payment of any such special assessment shall be fixed in the resolution adopting such special assessment, or, in lieu thereof, shall be the first day of the first month following the adoption of such special assessment.

5. ASSESSMENTS--MISCELLANEOUS. At such time as any assessment is adopted by the Owners, the Secretary of the Corporation shall advise each Owner in writing of the amount of assessment and the due date thereof.

Any officer of the Corporation shall, upon demand, at any time, furnish to any person or entity liable for such assessment a certificate in writing signed by such officer on behalf of the Corporation, setting forth the status of payment of any assessment. Such certificate shall be conclusive evidence of the payment or non-payment, as the case may be, of such assessment.

6. EFFECT OF NON-PAYMENT OF ASSESSMENTS; THE PERSONAL OBLIGATION OF THE OWNER; THE LIEN; REMEDIES OF CORPORATION. If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, become a continuing lien on the Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation for the statutory period and may not be delegated to his successors in title without the prior written consent of the Corporation; provided, however, that any successor or assign of such Owner or any Member shall become jointly and severally personally liable for the obligations of such Owner for unpaid assessments upon acceptance of conveyance of the fee simple title of said Lot unless such successor or assign shall have received from the Corporation a statement that all assessments have been paid.

If the assessment is not paid within ten (10) days following the date upon which it was due, the assessment shall bear interest from the date of the delinquency at the rate of eighteen percent (18%) per annum, and the Corporation may bring an action at law against the Owner or any person or entity personally obligated to pay the same and to foreclose the lien against the Lot, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the Court, together with the costs of the action.

7. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon any Lot; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the date of sale of such Lot pursuant to a decree of foreclosure of any such mortgage or the date upon which such mortgagee accepted delivery of a deed in lieu of such foreclosure proceedings. Such sale shall not relieve such successor Lot Owner from liability for any assessments thereafter becoming due nor relieve the Lot from the lien of any such subsequent assessment.

8. "JUNIOR LIEN" PROVISIONS. If any Lot shall become subject to the lien of a mortgage or deed of trust, (1) the foreclosure of the lien hereof shall not operate to affect or impair the lien of the mortgage or deed of trust; and (2) the foreclosure of the lien of the mortgage or deed of trust or the acceptance of a deed in lieu of foreclosure by the mortgagee shall not operate to affect or impair the lien hereof, except that the lien hereof for said charges as shall have accrued up to the foreclosure of the mortgage or acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage or deed of trust with the foreclosure purchaser or deed in lieu grantee taking title free of the lien hereof for all such charges that shall have accrued up to the time of the foreclosure or deed given in lieu of foreclosure but subject to the lien hereof for all said charges that shall accrue subsequent to the foreclosure or acceptance of the deed given in lieu of foreclosure.

ARTICLE V  
General Provisions

1. COVENANTS SHALL RUN WITH THE LAND. The covenants and restrictions of this Declaration and the Declaration of Plat shall run with the land, shall bind the Owners thereof, and shall inure to the benefit of and be enforceable by Hanover Grove Homeowners Association, Inc. or any Owner, his respective legal representatives, heirs, successors and assigns, until January 1, 2000, after which time the said covenants and restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument amending this Declaration to provide for the termination of all or part of the said covenants and restrictions shall have been signed by at least eighty percent (80.0%) of the Owners of the Lots and duly recorded in the Office of the Recorder of Marion County, Indiana.

2. ENFORCEMENT. Enforcement of the covenants and restrictions set forth herein shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation hereof or to recover assessments created hereby; and failure by the Hanover Grove Homeowners Association, Inc. or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

3. SEVERABILITY. Invalidation of any one of these covenants or restrictions by Judgment or Court Order shall in no way affect any other provisions, which shall remain in full force and effect.

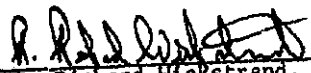
4. AMENDMENT. No amendment of this Declaration shall be effective; except as specifically provided in Section 1 hereof, unless all of the Owners of Lots shall have executed an Amendment hereof and it shall have been duly recorded in the Office of The Recorder of Marion County, Indiana.

IN WITNESS WHEREOF, CLP/CLUP, Ltd., Declarant, has caused this Declaration of Covenants and Restrictions to be executed as of the date first above written.

CLP/CLUP, Ltd.

By: CLP Company, General Partner

By: College Park Corporation,  
General Partner

By:   
R. Richard Wickstrand,  
President

ATTEST:

  
Timothy W. Sullivan, Assistant Secretary

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STATE OF INDIANA }  
COUNTY OF MARION } SS:

Before me, the undersigned Notary Public in and for said County and State, this 6th day of April, 1981, personally appeared R. Richard Wickstrand and Timothy W. Sullivan, to me known to be the President and Assistant Secretary, respectively, of College Park Corporation, General Partner of CLP Company, General Partner of CLP/CLUP, Ltd., and acknowledged the execution of the above and foregoing Declaration of Covenants and Restrictions for and on behalf of said CLP/CLUP, Ltd.

Signature: Karen Rae Evans  
Printed: Karen Rae Evans  
Notary Public

My County of Residence is:  
Marion

My Commission Expires:  
March 19, 1985

This Instrument Prepared By:  
Philip C. Thrasher  
Attorney at Law  
6296 North Rucker Road, Suite G  
Indianapolis, Indiana 46220  
Telephone: (317) 259-1268

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EXHIBIT "A"

Part of Section 17, Township 17 North, Range 3 East in Marion County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of the said Section 17; thence North 00 degrees 17 minutes 08 seconds East along the East line of the said Quarter Section 1915.77 feet to the South right-of-way line of Barnard Street in "College Park - Section One" as recorded May 23, 1968, Instrument #68-24022 in the Office of the Recorder of Marion County, Indiana; thence North 89 degrees 30 minutes 00 seconds East along the said right-of-way line 4.47 feet to the East right-of-way line of Fordham Street in the said "College Park - Section One"; thence North 00 degrees 30 minutes 00 seconds West along the said East right-of-way line 430.00 feet to the place of beginning; thence North 00 degrees 30 minutes 00 seconds West along the said East right-of-way line and the extension thereof 467.50 feet; thence North 89 degrees 30 minutes 00 seconds East 20.00 feet; thence South 76 degrees 26 minutes 50 seconds East 103.08 feet; thence North 89 degrees 30 minutes 00 seconds East 180.00 feet; thence South 00 degrees 30 minutes 00 seconds East 371.83 feet; thence South 89 degrees 30 minutes 00 seconds West 37.44 feet; thence South 27 degrees 30 minutes 00 seconds West 80.00 feet; thence South 89 degrees 30 minutes 00 seconds West 225.00 feet to the place of beginning, containing 2.997 acres, more or less.