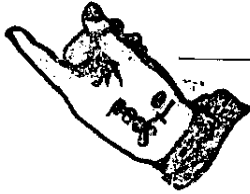


This instrument prepared by and after recording should be returned to:



0010064356

Jordan H. Peters, Esq.
Freeborn & Peters
311 South Wacker Drive
Suite 3000
Chicago, Illinois 60606



Property of Cook County Clerk's Office

(Above Space for Recorder's Use Only)

DECLARATION OF RESTRICTIVE COVENANTS AND PROTECTED USES

This declaration ("Declaration"), made as of the 23rd day of January, 2001, by LaSalle Bank national Association as successor trustee to American National Bank and Trust Company of Chicago, a national banking association, not personally, but solely as Trustee under a Trust Agreement dated March 3, 1998 and known as Trust Number 123897-06 ("Declarant"),

WITNESSETH:

WHEREAS, Declarant is the owner of fee simple title to the real property located in Cook County, Illinois and legally described on Exhibit A, attached to this Declaration and made a part hereof (the "Property"); and

WHEREAS, Declarant has heretofore caused to be recorded in the office of the Recorder of Deeds of Cook County, Illinois a certain Declaration of Condominium Ownership and of Easements, Restrictions, Covenants and Bylaws for the Cloisters Condominium (the "Condominium Declaration"), pursuant to which the Property was subjected to a regime of condominium ownership (the "Condominium"), as more fully set forth in the Condominium Declaration; and

WHEREAS, the Condominium Declaration was recorded on November 6, 2000, as document number 00874071; and

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WHEREAS, Declarant desires to impose certain restrictions, as more fully set forth herein, upon the use and occupancy of all of the Commercial Units within such Condominium, being Units C, D, E and K and other Commercial Units which may be established in the future by amendments to the Condominium Declaration, as shown on the Plat attached to the Condominium Declaration or any amendment thereto, and to protect certain uses of Unit D, all as more fully set forth herein;

NOW, THEREFORE, Declarant hereby declares as follows:

1. **Incorporation of Recitals.** The matters recited above are hereby incorporated in this Declaration, with the same effect and as though fully set forth herein.

2. **Defined Terms.** Terms used in this Declaration as defined terms and not otherwise defined herein shall have the meanings assigned to them in the Condominium Declaration.

3. **Restrictions and Protected Uses.** Each of the Commercial Units shall be subject to the following restrictions, and Unit D shall have the benefit of the following protections:

No Commercial Unit except for Unit D shall be used or occupied for the purpose of selling any of the following items: gourmet coffee, espresso, cappuccino and/or similar coffee drinks, gourmet coffee products, coffee beans and/or coffee ground on-site (the "Unit D Protected Use"). The foregoing Unit D Protected Use shall not be deemed to prohibit the use of any other Commercial Unit for the operation of a restaurant, as defined below, including, without limitation, the incidental sale of non-branded American-style coffee in connection with such use. For purposes of this Declaration, the operation of a restaurant shall mean the commercial preparation of food within the Unit, which food is served to be consumed at a table or counter located within such Unit or for "take-out".

4. **Term.**

The term of the restrictions and protections established by this Declaration shall commence upon the recording of this instrument and shall end on the later to occur of (i) the day on which Unit D has not, at any time during the previous 365 days, been used for any of the Unit D Protected Uses and (ii) the last day of the term of the lease to be entered into between the owner of Unit D and Caribou Coffee Company, Inc., including any extensions, renewals and option periods provided for in such lease.

5. **Confirmation of Termination.** At such time as the Unit D Protected Use shall have terminated, as provided in paragraph 4 above, the then owner of fee simple title to Unit D shall upon receipt of written demand from the Association or from the record owner of fee simple title to any other Commercial Unit, execute, acknowledge

and record in the office of the Recorder of Deeds of Cook County, a reasonable instrument confirming the termination of such Unit D Protected Use

6. **Burdens and Benefits.** All of the foregoing are also covenants running with the Commercial Units at law as well as in equity and shall be binding upon and inure to the benefit of the successors and assigns of Declarant and all present and future parties owning or having an interest in any of the Commercial Units or any part thereof.

7. **Enforcement.** The Unit D Protected Use shall be enforceable through any appropriate legal remedy by Declarant and its successors and assigns, and by the owners from time to time of fee simple title to Unit D. Any party prevailing in an action to enforce this Declaration shall be entitled to reimbursement from the non-prevailing party for all costs and attorneys' fees incurred by such prevailing party in successfully enforcing this Declaration.

8. **Savings Clause.** Invalidation of any of the terms and conditions of this Declaration, whether by court order or otherwise, shall in no way affect any of the other terms and conditions of this Declaration, which shall remain in full force and effect.

9. This instrument is executed by LA SALLE BANK NATIONAL ASSOCIATION as successor trustee to American National Bank and Trust Company of Chicago, not personally, but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by LA SALLE BANK NATIONAL ASSOCIATION as successor trustee to American National Bank and Trust Company of Chicago, are undertaken by it solely as Trustee, as aforesaid, and not individually, and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against LA SALLE BANK NATIONAL ASSOCIATION as successor trustee to American National Bank and Trust Company of Chicago, by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this instrument.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the date first above written.

LaSalle Bank National Association as successor trustee to American National Bank and Trust Company of Chicago, a national banking association, not personally but as Trustee aforesaid

By: *Reta A. Edwards*

Its: TRUST OFFICER

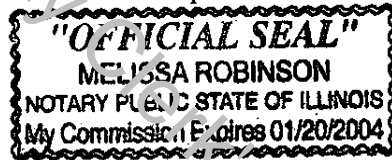
STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, MELISSA ROBINSON, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that RETA A. EDWARDS, personally known to me to be the TRUST OFFICER of LaSalle Bank National Association as successor trustee to American National Bank and Trust Company of Chicago, a national banking association, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such _____, he signed and delivered the said instrument, pursuant to authority given by the board of directors of said corporation, as a free and voluntary act, and as the free and voluntary act and deed of said association, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 24th day of JANUARY, 2000.

Melissa Robinson
Notary Public

Commission expires:



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CONSENT OF MORTGAGEE

American National Bank of Chicago by mortgage dated May 28, 1998 and recorded June 2, 1998 as document number 98455892, re-recorded June 15, 1998 as document number 98502437, as amended by first amendment recorded February 25, 1999 as document 99187749 and re-recorded July 31, 2000 as document number 00599361 and assignment of rents to American National Bank of Chicago recorded June 2, 1998 as document 98502438 and re-recorded June 15, 1998 as document 98455893 and amended by first amendment recorded February 25, 1999 as document number 99187750 and re-recorded July 31, 2000 as document number 00599362, hereby consents to the execution and recording of the within Amendment to Declaration of Restrictive Covenants and Protected Uses and agrees that said Mortgage is subject thereto and to the provisions therein.

IN WITNESS WHEREOF, American National Bank of Chicago, has caused this Consent of Mortgagee to be signed by its duly authorized officers on its behalf; all done at Chicago, Illinois, on this 24 day of January, 2001.

American National Bank of Chicago
a National Banking Association

By: [Signature]
Its: AVP

ATTEST:

[Signature]
Its: Vice President

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, Annette Rodriguez, a Notary Public in and for said County and State, do hereby certify that Jeanne Louis, and Kevin Foley, respectively of American National Bank and Trust Company of Chicago, as such AMP and VP, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 24 day of January, 2001.

Annette Rodriguez
 Notary Public



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COOK COUNTY CLERK'S OFFICE