

PH# 04-188396

DECLARATION OF CONDOMINIUM OWNERSHIP  
AND OF  
EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS  
FOR  
MERIDIAN LOFTS CONDOMINIUM

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THIS DECLARATION, made and entered into by CDD Holdings, LLC, an Indiana limited liability company (hereinafter referred to as "Declarant"):

WITNESSETH THAT

WHEREAS, Declarant owns certain real estate located in Marion County, Indiana, more particularly described in Exhibit A attached hereto and by reference made a part hereof (hereinafter referred to as "Real Estate"); and

WHEREAS, it is the desire and intention of Declarant to enable the Real Estate, together with all buildings, structures, improvements, fixtures and property of whatsoever kind thereon, and all easements, rights, appurtenances and privileges belonging or in anyway pertaining thereto (hereinafter referred to as the "Property"), to be owned by Declarant and by each successor in interest of Declarant, and to submit the Property to the provisions of the condominium laws of the State of Indiana; and

WHEREAS, Declarant has elected to establish, for the benefit of Declarant and for the mutual benefit of all future owners or occupants of the Property, or any part thereof, which shall be known as "Meridian Lofts Condominium" (herein "Meridian Lofts"), certain easements, privileges and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof; and

WHEREAS, Declarant has further elected to declare that the several owners, mortgagees, occupants, and other persons acquiring any interest in the Property shall at all times enjoy the benefits of, and shall at all times hold their interests subject to the rights, easements, privileges, and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of ownership of the Property and to facilitate the proper administration thereof and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property;

NOW, THEREFORE, Declarant, for the purposes set forth, DECLARES AS FOLLOWS:

ARTICLE I  
DEFINITIONS

Section 1.1. For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

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- (a) "Act" means the condominium laws of the State of Indiana, I.C. § 32-25-1-1, *et seq.* The Act is incorporated herein by reference.
- (b) "Association" means Meridian Lofts Condominium Owners Association, Inc., an Indiana not-for-profit corporation, being the association of Co-owners of Meridian Lofts Condominium.
- (c) "Board" or "Board of Directors" means the governing body of the Association, being the initial Board of Directors referred to in the By-Laws or subsequent Board of Directors elected by the Co-owners in accordance with the By-Laws, and as further described in Article V.
- (d) "Building" means the structure on the Real Estate in which the Condominium Units are located. The Building is more particularly described and identified on the Plans and in Article IV of this Declaration.
- (e) "By-Laws" means the By-Laws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. A true and correct copy of the By-Laws is attached to this Declaration as Exhibit C and incorporated herein by reference.
- (f) "Common Areas" means the Common Areas and Facilities and the Limited Common Areas and Facilities.
- (g) "Common Areas and Facilities" means all portions of the Property, except the Condominium Units, as described more particularly in Article III of this Declaration.
- (h) "Common Expenses" means expenses of administration of the Association and expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Facilities and Limited Common Areas and Facilities (to the extent provided herein) and all sums lawfully assessed against the Owners by the Association or as declared by the Act, this Declaration or the By-Laws.
- (i) "Condominium Unit" means each one of the units constituting a part of the Property, each individual unit being more particularly described in the Plans and in Article II of this Declaration. Such term also includes the undivided percentage interest in Common Areas and Facilities and Limited Common Areas and Facilities.
- (j) "Co-owners" means the Owners of all the Condominium Units.
- (k) "Declarant" means and refers to CDD Holdings, LLC, an Indiana limited liability company, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant

hereunder, including, but not limited to, any mortgagee acquiring title to any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(l) "Declaration" means this instrument, by which the Property is submitted to the provisions of the Act, and shall include such amendments, if any, to this instrument as from time to time may be adopted pursuant to the terms hereof.

(m) "Development Period" means the period of time commencing upon the date that this Declaration is recorded in the Office of the Recorder of Marion County and ending on the earlier of the date upon which Declarant conveys the last Condominium Unit to an Owner or three (3) years from the date of recordation of this Declaration.

(n) "Meridian Lofts Condominium." means the name by which the Property shall be known.

(o) "Limited Common Areas and Facilities" means a portion or portions of the Common Areas and Facilities which are designated by this Declaration, the Plans or By-Laws as being Limited Common Areas and Facilities reserved for the use of a certain Condominium Unit or Condominium Units to the exclusion of the other Condominium Units as described more particularly in Article III of this Declaration.

(p) "Owner" means the record owner, whether one or more Persons, of a fee simple title to any Condominium Unit, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(q) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas and Facilities and Limited Common Areas and Facilities appertaining to each Condominium Unit as specifically expressed in Article III of this Declaration.

(r) "Percentage Vote" means that percentage of the total vote accruing to all of the Condominium Units which is appurtenant to each particular Condominium Unit and accrues to the Owner thereof.

The Percentage Vote to which each owner shall be entitled on any matter upon which the Co-owners are entitled to vote shall be the same percentage as the Percentage Interest appurtenant to such Owner's Condominium Unit.

(s) "Person" means a natural individual, corporation, partnership, association, trust or other legal entity or any combination thereof capable of holding title to real property.

(t) "Plans" means the site plan of the Real Estate showing location of the Buildings in relation to 'lot lines' and the floor plans of the Buildings and the Condominium Units, submitted pursuant to the provisions of the Act, all of which are incorporated herein by reference. "Plans" shall also include any amendments to the Plans which have been recorded.

(u) "Property" means the Real Estate submitted and subjected to the Act by this Declaration, all improvements and structures constructed or contained therein or thereon, including the Buildings, and all easements, rights and appurtenances belonging thereto, and all fixtures and property intended for the mutual use, benefit or enjoyment of the Owners, but not including the personal property of the Owners.

(v) "Square Footage" or "Square Feet" means the square footage or square feet applicable to a particular Condominium Unit as shown on the Plans and shall remain as so designated even though the actual square footage of any Condominium Unit may contain some minor deviation.

(w) "Unit 1" shall mean Condominium Unit 1 as shown on the Plans and is the Unit 1 referred to in this Declaration, including but not limited to Section 4.14 below.

## ARTICLE II CONDOMINIUM UNITS

Section 2.1. Description and Ownership. The legal description of each Condominium Unit shall consist of the identifying symbol of numbers and/or letters for each Condominium Unit as shown on the Plans and on Exhibit B attached hereto. Every deed, lease, mortgage or other instrument shall describe a Condominium Unit by its identifying number or symbol as shown on the Plans, and every such description shall be deemed good and sufficient for all purposes. No Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause a Condominium Unit to be separated into any tracts or parcels different from the whole Condominium Unit as shown on the Plans.

Section 2.2. Appurtenances. Each Condominium Unit shall consist of all space within the boundaries thereof, as hereinafter defined, and all portions of the Building(s) situated within such boundaries, including but not limited to the storage areas and all fixtures, facilities, utilities, equipment, appliances, and structural components designed and intended solely and exclusively for the enjoyment, use and benefit of the Condominium Unit wherein the same are located, or to which they are attached, but excluding therefrom that designed or intended for the use, benefit, support, safety or enjoyment of any other Condominium Unit or which may be necessary for the safety, support, maintenance, use, and operations of the Buildings or which are normally

designed for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Condominium Unit shall constitute a part of such Condominium Unit, whether or not the same are located within or partly within the boundaries of such Condominium Unit. Also, the interior sides and surfaces of all doors and windows in the perimeter walls of a Condominium Unit, whether or not located within or partly within the boundaries of a Condominium Unit, and all interior walls and all of floors, floor coverings and ceilings within the boundaries of a Condominium Unit, are considered part of the Condominium Unit.

Section 2.3. Boundaries. The boundaries of each Condominium Unit shall be shown on the Plans without regard to the existing construction measured between the interior unfinished surface of the floors, roofs, ceilings and perimeter walls of each Condominium Unit. In the event any horizontal or vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or roof surface of the Condominium Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Condominium Unit shall be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent appurtenant easements for exclusive use shall exist in favor of the Owner of each Condominium Unit in and to such space lying outside of the actual boundary lines of the Condominium Unit, but within the appropriate wall, floor or roof surfaces of the Condominium Unit.

Section 2.4. Certain Structures Not Constituting Part Of A Condominium Unit. No Owner shall own any pipes, wires, conduits, utility lines or structural components running through a Condominium Unit and serving more than that Condominium Unit, whether or not such items shall be located in the floors, ceilings or perimeter or interior walls of the Condominium Unit, except as a tenant-in-common with all other Owners.

### ARTICLE III

#### COMMON AREAS AND FACILITIES AND LIMITED COMMON AREAS AND FACILITIES

Section 3.1. Description of Common Areas and Facilities. Except as otherwise provided in Section 4.14 or as otherwise provided herein or on the Plans and except as otherwise classified and defined herein as Limited Common Area, the Common Areas and Facilities shall consist of (1) the Property, excluding the Condominium Units, (2) the foundations, columns, girders, beams, supports, other structural portions of the Buildings and exterior surfaces of the roofs of the Buildings, (3) the yards, landscaping, sidewalks, drives, perimeter fencing and entry gates (if any such items are part of the Property), (4) halls, corridors, fire exits, lobbies, vestibules, elevator lobbies, trash chutes, HVAC and mechanical rooms, fitness rooms, stairs, stairways, entrances and exits of the Building (excluding those within a Condominium Unit) (5) central electricity, gas, water, air-conditioning and sanitary sewer mains, fire protection systems, building sewers, service lines or laterals serving all of the Condominium Units, if any, (6) exterior lighting fixtures and electrical service lighting the exterior of the Buildings unless

separately metered to a particular Condominium Unit, (7) pipes, ducts, electrical wiring and conduits and utilities lines which serve more than one Condominium Unit, (8) floors, roofs and exterior perimeter walls of the Buildings, except to the extent the same are otherwise classified and defined herein as part of the Condominium Unit, (9) all facilities and appurtenances located outside of the boundary lines of the Condominium Units, except those areas and facilities expressly classified and defined herein as Limited Common Areas and Facilities or as part of the Condominium Unit, and (10) such other areas as are designated on the Plans.

Section 3.2. Description of Limited Common Areas and Facilities. Limited Common Areas and Facilities and those Condominium Units to which use thereof is limited are as follows:

- (a) The entrances and exits of each Condominium Unit shall be limited to the exclusive use of the Condominium Unit to which they are attached or appertain.
- (b) The patio area designated on the Plans shall be limited to the exclusive use of the Unit 1; provided, however, the portion of such patio as indicated on the Plans or used as fire exit or emergency exit shall be a Common Area.
- (c) The exterior sides and surfaces of doors, windows and frames surrounding the same in the perimeter walls in each Condominium Unit shall be limited to the exclusive use of the Condominium Unit to which they appertain.
- (d) Any parking spaces leased by the Association and any storage spaces or units located in the Buildings which are designated by reference on the deed to a particular Condominium Unit or other agreement between the Owner of a particular Condominium Unit and the Declarant or the Association for use by that Owner shall constitute Limited Common Areas and Facilities and be limited to the exclusive use of the Condominium Unit to which such use is designated.
- (e) The elevator, the lobby area around the elevator and the halls and stairs in the floors above the first floor in the Buildings shall generally be limited to the use of the Condominium Owners other than the Owner of Unit 1. The Owner of Unit 1 shall have access to the stairs, elevator, halls, roof, Common Areas in the basement and other such areas for the installation, repair, maintenance and replacement of utilities (including HVAC and the cooling tower for the HVAC) and other equipment serving Unit 1. Certain utilities serving only Unit 1, such as the fire suppression system, may from time to time be located within areas of the basement that are labeled on the plans as Limited Common Area for units other than Unit 1. The guests and invitees of any business being operated in Unit 1 or shall not have a right of access to such areas, except that the Unit 1 Owner and its respective tenants, guests and invitees shall have the right to use the entrance to the Building as shown on the plans for access to Unit 1 and the Unit 1 Owner, its tenant, guests and invitees shall have access to the elevator to the basement for compliance with the Americans with Disabilities Act and similar laws. The Board may enact

reasonable rules and regulations to provide security to the Condominium Units located on the upper floors of the Buildings so long as the Unit 1 Owner has reasonable access (including emergency access at all times) to the utilities and equipment serving Unit 1.

(f) Any other areas designated and shown on the Plans as Limited Common Areas and Facilities shall be limited to the Condominium Unit or Condominium Units to which they appertain as shown on the Plans.

Section 3.3. Ownership of Common Areas and Percentage Interest.

Each Owner shall have an undivided interest in the Common Areas and Facilities and Limited Common Areas and Facilities as tenants in common with all other Owners equal to his Condominium Unit's Percentage Interest. Each Condominium Unit's Percentage Interest in the Common Areas and Facilities and Limited Common Areas and Facilities shall be determined in accordance with each Condominium Unit's Square Footage in relation to the Square Footage of all Condominium Units and is set forth on Exhibit B. The method of determining the Percentage Interest as set forth in this Section 3.3 and as set forth on Exhibit B shall not be altered without the unanimous consent of all the Co-owners.

The Percentage Interest appertaining to each Condominium Unit also shall be the Percentage Vote allocable to the Owner thereof in all matters with respect to Meridian Lofts and the Association upon which the Co-owners are entitled to vote, including but not limited to the election of the Board of Directors.

ARTICLE IV

GENERAL PROVISIONS AS TO  
CONDOMINIUM UNITS AND COMMON AREAS

Section 4.1. Submission of Property to Act. The Property is hereby submitted to the provisions of the Act.

Section 4.2. Description of Building. There are two (2) adjacent buildings which have been interconnected to effectively constitute one building and which is four (4) stories in height plus a mezzanine level and one basement level which contain a total of 19 Condominium Units as depicted on the Plans.

Section 4.3. No Severance Of Ownership. No owner shall execute any deed, mortgage, lease, or other instrument affecting title to a Condominium Unit without including therein both the Owner's interest in the Condominium Unit and the Condominium Unit's corresponding Percentage Interest of Ownership in the Common Areas, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

Section 4.4. Easements.

(a) Encroachments. In the event that, by reason of the construction, settlement or shifting of the Buildings, any part of the Common Areas encroach or shall hereafter encroach upon any part of any Condominium Unit, or, if by reason of the design or construction of any Condominium Unit, it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Areas for any reasonable use appurtenant to that Condominium Unit, which will not unreasonably interfere with the use or enjoyment of the Common Areas by other Owners, or, if by reason of the design or construction of utility, fire protection and ventilation systems, any main pipes, ducts or conduits serving one or more Condominium Units encroach or shall hereafter encroach upon any part of any Condominium Unit or the Common Areas, valid easements for the maintenance of such encroachment and for such use of such facilities are hereby established and shall exist for the benefit of such Condominium Unit or the Common Areas, as the case may be, so long as all or any part of the Buildings shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Areas be created in favor of any owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Owners and if it occurred due to the willful conduct of any Owner.

(b) Utility Easements. All public utilities, including cable television companies, serving the Property are hereby granted the right to install, lay, construct, renew, alter, remove, repair, replace, operate and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment into, over, under, along, on and through any portion of the Common Areas for the purpose of providing utility services to the Property. The Board may hereafter grant additional utility easements for the benefit of the Property over, under, along and on any portion of the Common Areas, and each Owner hereby grants to the Association and Board an irrevocable power of attorney to execute, acknowledge, register or record for and in the name of all the Owners, such instrument or instruments as may be necessary to effectuate the foregoing.

(c) Public and Quasi-Public Vehicle Easement. All public and quasi-public vehicles, including without limitation, police, fire, ambulance and other emergency vehicles, trash and garbage collection, post office vehicles and carriers, and delivery vehicles, shall have the right to enter upon the Common Areas and Facilities in performance of their various duties.

(d) Easements To Run With The Land. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on Declarant, its successors and assigns, and any Owner, purchaser, mortgagee and



other person having an interest in the Property, or any part or portion thereof. Reference in the respective deeds of conveyance, or in any mortgage or other evidence of obligation, to the easements and rights described in this Article, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such Condominium Unit as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

Section 4.5. Use of the Common Areas and Facilities. Subject to the provisions of Section 4.4 of this Article, each Owner shall have the right to use the Common Areas and Facilities (except the Limited Common Areas and Facilities) in common with all other Owners, as may be required for the purpose of ingress and egress to, and use, occupancy and enjoyment of, the respective Condominium Unit owned by each Owner. Such rights shall extend to the Owner and the members of such Owner's immediate family and guests and other occupants and visitors. The use of the Common Areas and Facilities and the rights of the owners with respect thereto shall be subject to and governed by the provisions of the Act, this Declaration, the By-Laws and rules and regulations of the Board.

Section 4.6. Maintenance of Common Areas: Common Expenses. Except as otherwise provided herein (including but not limited to Section 4.14 below), management, repair, alteration and improvement of the Common Areas (including the Limited Common Areas) shall be the responsibility of the Association through the Board. Each Owner shall pay his proportionate share of the expenses of maintenance, repair, replacement, administration and operation of the Common Areas and other Common Expenses. Such proportionate share shall be in the same ratio as the Percentage Interest in the Common Areas as set forth in Exhibit B, as amended from time to time by supplemental declarations as herein provided. Payment thereof shall be in such amount and at such times as may be provided by the By-Laws of the Association or rules and regulations of the Board. In the event of the failure of an Owner to pay his proportionate share when due, the amount thereof shall constitute a lien on the interest of such Owner in the Property pursuant to the terms of the Act, the By-Laws and as provided herein and may be foreclosed pursuant thereto and other applicable law. Abandonment of a Condominium Unit or non-use of the Common Areas by an Owner shall not relieve such Owner from his obligation to pay his proportionate share of Common Expenses.

Section 4.7. Separate Real Estate Taxes. It is intended and understood that real estate taxes are to be separately assessed and taxed to each Condominium Unit and that the Common Areas are to be separately taxed to each Condominium Unit in accordance with the Condominium Units corresponding Percentage Interest in the Common Areas and Facilities. In the event that, for any year, such taxes are not separately taxed to each Owner, but are taxed on the Property as a whole, then each Owner shall pay his proportionate share thereof in accordance with his respective Percentage Interest in the Common Areas.

Section 4.8. Utilities. Each Owner shall pay for his own telephone, electricity and other utilities which are separately metered or billed to his Condominium Unit by the respective

utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses, unless otherwise determined by the Board.

Section 4.9. Insurance. Each Owner shall be responsible for his own insurance on the contents of his own Condominium Unit, and for additions and improvements thereto and decorating and furnishings and personal property therein, and for personal property stored elsewhere on the Property, and his personal liability insurance, except as provided in the By-Laws.

The Association shall obtain fire and extended coverage insurance insuring the Property as set forth in Article VII hereof. The Association shall obtain comprehensive public liability insurance in such limits as the Association shall deem appropriate but not less than Three Million Dollars (\$3,000,000), together with workmen's compensation insurance and other liability insurance, if deemed necessary or appropriate by the Board. Such insurance shall inure to the benefit of each Owner, the Association, the Board, and any managing agent or company acting on behalf of the Association. Such insurance coverage shall also cover cross liability claims of one insured against the other. The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

The Association shall not be responsible for obtaining insurance on any additions, alterations or improvements made by any Owner to his Condominium Unit unless and until such Owner shall request the Association in writing so to do, and shall make arrangements satisfactory to the Association to reimburse the Association for any additional premiums attributable thereto; and upon the failure of such Owner so to do, the Association shall not be obligated to apply any insurance proceeds to restore the affected Condominium Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements.

Each Owner hereby waives and releases any and all claims which he may have against the Association, the Board, its officers, members of the Board, the Declarant, the manager and managing agent of the Property, and their respective employees and agents, for damage to the Common Areas, the Condominium Units, or to any personal property located in the Condominium Units or Common Areas caused by fire or other casualty.

Section 4.10. Maintenance, Repairs and Replacements of Condominium Units.

(a) By the Association. Except as otherwise provided herein, the Association, as a part of the Common Expense, shall be responsible for the maintenance, repair and replacement of those portions of each Condominium Unit which contribute to the support of the Buildings, excluding, however, interior wall, ceiling and floor surfaces, but including outside walls. In addition, the Association shall maintain, repair and replace all exterior doors serving the Buildings, roof and conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services serving more than one Condominium Unit. The Board shall adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas as it deems appropriate and may amend and modify the same from time to

time. The Board or its designated agents shall have the right at reasonable times and upon reasonable notice (except in case of emergency in which case no notice is required) to enter into each individual Condominium Unit for the purpose of inspection of the Common Areas appurtenant thereto and replacement, repair and maintenance of such Common Areas.

(b) By the Owner. Except as otherwise provided in subparagraph (a) above, each Owner shall furnish, at his own expense, and be responsible for the following:

(1) All of the maintenance, repairs and replacements within his own Condominium Unit and all internal installations of such Condominium Unit such as televisions, refrigerators, ranges and other kitchen appliances, lighting fixtures and other electrical fixtures, appliances, and heating, plumbing and air-conditioning fixtures (including air-conditioning condenser units and heat pumps located outside of a Condominium Unit) or installations, and any portion of any other utility service facilities located within the Condominium Unit boundaries (unless such utilities serve other Condominium Units); provided however, such maintenance, repairs and replacements as may be required for the bringing of water, electricity or other utilities to the Condominium Unit, shall be furnished by the Association as part of the Common Expenses.

(2) The Association and the Board may provide, by its rules and regulations, for ordinary maintenance and minor repair and replacements to be furnished to Condominium Units as a Common Expense. No Owner shall make any alterations or additions to his Condominium Unit which affects the structural integrity of any other Condominium Unit or Building.

(3) All of the decorating within his own Condominium Unit from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Owner shall be entitled to the exclusive use of such portions of the perimeter walls, floors, and ceilings as lie within the boundaries of his Condominium Unit as shown on the Plans, and such Owner shall maintain such portions in good condition and repair at his sole expense. All such maintenance and use shall be subject to the rules and regulations of the Association and the Board. The interior surfaces of window glass in all windows forming part of perimeter wall of a unit shall be cleaned or washed at the expense of each respective Owner. Except for Unit 1, the use of and the covering of the interior surfaces of such windows, whether by draperies, shades

or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Association and the Board. The repair and replacement of all windows and plate glass which are a part of the perimeter of Unit 1 shall be maintained, repaired and replaced by and at the expense of the Unit 1 Owner. The windows and exterior glass for the other Condominium Units and the cleaning of the exterior windows and glass for the other Condominium Units shall be performed by the Association unless otherwise determined by the Board and the expenses related thereto shall be expenses related to Limited Common Areas and Facilities and shall be allocated to Condominium Units other than Unit 1. Decorating of the Common Areas and any redecorating of Condominium Units to the extent made necessary by any damage to existing decorating of such Condominium Units caused by maintenance, repair or replacement work on the Common Areas by the Association, shall be furnished by the Association as part of the Common Expenses. Nothing herein contained shall be construed to impose a contractual liability upon the Association or Board for maintenance, repair and replacement, but the Association's liability shall be limited to damages resulting from negligence.

(c) As of the first day of the first month following the conveyance of the first Condominium Unit, each Condominium Unit shall be subject to the Regular Assessments and Special Assessments (as determined by Declarant and/or the Board of Directors, as applicable), (collectively, the "Assessments") as provided in this Section 4.10 and Article VII of the Bylaws, and all such Assessments shall constitute liens upon each Condominium Unit and appurtenant Percentage Interest as provided and described in this Declaration and the Bylaws. The date(s) on which Assessments are due and payable shall be as specified in this Declaration or the Bylaws, or if not so specified, then as determined by the Board of Directors. In addition, each Owner shall be personally liable for the amounts of any and all Assessments which become due and payable during the period in which such Owner holds title to a Condominium Unit. A conveyance by an Owner of his Condominium Unit shall not operate to release or limit the liability of an Owner for Assessment becoming due and payable while such Owner holds title to a Condominium Unit. The lien of any Assessment shall be subordinate to any first mortgage lien on any Condominium Unit which was recorded before the time when said Assessment first became delinquent, and any sale or transfer of a Condominium Unit pursuant to a foreclosure of a first mortgage lien shall extinguish such subordinate liens. Notwithstanding the foregoing, Declarant shall be excused from contributing toward Common Expenses as provided in Section 4.10(e) below.

(d) Each Assessment shall be due and payable on the due date(s) thereof as specified in this Declaration or the Bylaws, or if not so specified, then on the due date(s) determined by the Board of Directors, and the date for the payment of such Assessment is hereby termed the "Delinquency Date". Any Assessment which is not paid in full by the

Delinquency Date shall be deemed delinquent without further notice or demand to the defaulting Owner, and such Owner shall be charged a late fee as determined by the Board from time to time not to exceed fifty dollars (\$50.00) plus any additional per diem amount prescribed by the Board not to exceed five dollars (\$5.00) per day from the Delinquency Date until paid in full. In the event that any costs or expenses, including attorneys' fees, are incurred by or on behalf of the Association with respect to the recovery or collection of any delinquent Assessment, all such costs and fees shall be due and payable immediately by such delinquent Owner and shall bear interest from the dates incurred until paid in full, at a rate of interest equal to the lesser of eighteen percent (18%) per annum or the maximum rate allowed by law. All interest, late fees, costs and expenses payable hereunder with respect to a delinquent Assessment shall be added to and deemed a part of such delinquent Assessment and shall constitute a lien on the delinquent Owner's Condominium Unit and Percentage Interest as of the date on which such delinquent Assessment first became a lien. In the event that any Condominium Unit Owner fails to pay Assessments in full on or before the Delinquency Date more than twice in any fiscal year, the Association shall be entitled to accelerate and declare due and payable in full all installments of Assessments due for the fiscal year in which such delinquency occurs, and to enforce payment of the same by foreclosure of said lien and/or other appropriate legal proceedings in accordance with the laws of the State of Indiana.

(e) The Declarant as Owner of any unoccupied Condominium Unit(s) offered for the first time for sale shall not be obligated to contribute toward Common Expenses for those Condominium Units for a period commencing on the date that this Declaration is recorded in the Marion County Recorder's Office and expiring on the first day of the twenty-fourth (24<sup>th</sup>) calendar month following the month in which the closing of the sale of the first Condominium Unit occurs. Provided that, notwithstanding the foregoing, if the Common Expenses incurred during the period stated above exceed the amount assessed against the other Owners, then Declarant shall pay the excess.

Section 4.11. Negligence of Owner. If, due to the negligent act or omission of an Owner, or of a member of his family or household pet, or of a guest or other authorized occupant or visitor of such Owner, damage not covered by insurance shall be caused to the Common Areas or to a Condominium Unit or Condominium Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements as may be determined by the Board, subject to the rules, regulations and By-Laws of the Association and the Board.

Section 4.12. Joint Facilities. To the extent that equipment, facilities and fixtures within any Condominium Unit shall be connected to similar equipment, facilities or fixtures affecting or serving other Condominium Units or the Common Areas, then the use thereof by the individual Owners shall be subject to the rules and regulations of the Association and the Board. The authorized representatives of the Board, or of the manager or managing agent for the Buildings, shall be entitled to reasonable access to the individual Condominium Units as may be required in connection with maintenance, repairs or replacements of or to the Common Areas or any equipment, facilities or fixtures affecting or serving other Condominium Units or the Common

Areas, and the use thereof by the individual Owners shall be subject to the reasonable rules and regulations of the Association and the Board.

Section 4.13. Alterations, Additions and Improvements. Except as provided in Section 4.14 below, no alterations of any Common Areas or Limited Common Areas or any additions or improvements thereto shall be made by any Owner without the prior written approval of the Board nor shall any Owner make any alteration in or to his respective Condominium Unit which would affect the safety or structural integrity of the Building in which the Condominium Unit is located. Declarant reserves the right to change the interior design and arrangement of all Condominium Units and alter the boundaries between Condominium Units so long as Declarant owns the Condominium Units so altered. No such change shall increase the number of Condominium Units nor change the Percentage Interest applicable to such Condominium Unit. If Declarant shall make any changes in the Condominium Units so authorized, such changes shall be reflected by a recorded supplement to the Plans and such supplement to the Plans need not be approved by the Association, the Board, or any other Owners.

Section 4.14. Condominium Unit 1. It is intended that the initial use of Condominium Unit 1 will be a restaurant including a full service bar and that Unit 1 will most likely continue thereafter to have the same use or some other type of retail or commercial use. The Condominium Units on the second, third and fourth floors of the Building may be primarily or completely residential. No provision in this Declaration or the By-Laws shall be construed or enforced with the intent of prohibiting or interfering with a commercial use within Unit 1. Provided, however, Unit 1 along with all other Units shall be subject to the list of prohibited uses set forth on Exhibit D to this Declaration. In the event of any conflict between the provisions of this Section 4.14 and any other provision in this Declaration or the By-Laws, the provisions in this Section 4.14 shall prevail.

The Association has been provided with a copy of a Space Lease ("Unit 1 Lease") last dated as of November 11, 2002 by and between Declarant and GMRI, Inc. Any amendment to this Declaration and any rules and regulations adopted by the Board or any other action of the Association shall not adversely affect the rights granted under this Section 4.14, shall not cause a violation of the Unit 1 Lease, and shall not impose additional burdens on the Owner of Unit 1 without the written consent of the Unit 1 Owner and for so long as the Unit 1 Lease is in effect without the consent of the tenant under the Unit 1 Lease; provided, however, this sentence shall not prevent amendments, rules or other changes required by law.

Unit 1 has been designed and constructed with utilities separate from those serving the other Condominium Units, including separate water line, sewer line (with grease trap for Unit 1), gas line, electrical meter and panel and telephone and communication lines and possibly separate fire protection system. The utilities serving Unit 1 shall be Limited Common Areas and Facilities for the use and benefit of Unit 1 only and the Owner of Unit 1 or its tenants shall be responsible for repair, maintenance and replacement of those facilities without cost to the other Owners. The electrical service panels, heating and cooling equipment including a cooling tower or towers on the roof are located outside of the boundaries of Unit 1 but shall be Limited Common Areas and Facilities limited to the exclusive use of Unit 1. Such electrical and heating and cooling

equipment shall be repaired, maintained and replaced at the sole cost of the Unit 1 Owner (or tenant occupying Unit 1 ) that is served by such equipment. The Unit 1 Owner and its employees, agents and contractors shall have reasonable access within the Common Areas and Limited Common Areas for the operation, repair, maintenance and replacement of such utilities, equipment and other items serving Unit 1. The Unit 1 Owner shall have the right to erect reasonable protective and security barriers around such facilities so long as those barriers do not unreasonably inhibit access by the Board and other Owners to any Condominium Unit or to the Common Areas or Limited Common Areas and to any utilities or equipment serving any Condominium Unit or the Common Areas or Limited Common Areas.

The Plans identify an area for placement of dumpsters for collection of trash and refuse. A portion of that area shall be Limited Common Area for the placement of a dumpster for the exclusive use of Unit 1 and a portion shall be Limited Common Area for the placement of a dumpster or dumpsters for the other Condominium Units. The costs related to the Unit 1 dumpster shall be borne solely by the Unit 1 Owner and costs of the other dumpsters shall be borne by the remaining Owners based upon each Owner's Percentage Interest.

As provided in Section 3.2, the patio area as shown on the Plans shall be Limited Common Area for the sole benefit of the Unit 1 Owner, except that portion of the patio area shown on the Plans as emergency exit shall be Common Area and available at all times for emergency access to all Units. The Unit 1 Owner shall be responsible for the maintenance, repair and replacement of the patio area. The Unit 1 Owner shall have the right to erect doors, fences, or barriers so as to restrict access to the patio area (except the emergency exit area) to the employees, agents, guests and other invitees of the Unit 1 Owner. The Unit 1 Owner shall have the right to construct walls, windows, awnings, or roof covering over the patio area or make any other additions or alterations without the consent of the Board; provided, however, (i) the Unit 1 Owner shall provide a copy of all plans and specifications for any significant construction to the Board; (ii) no such construction shall cause any structural alteration to the Building or have any adverse affect on the utility services to any Condominium Unit, block any window of any Condominium Unit other than Unit 1, have a height in excess of one story or block the emergency exit and (iii) all costs of construction, repair, maintenance and replacement shall be borne solely by the Unit 1 Owner or its tenant and any such structure shall at all times be kept in a clean and well maintained condition. No banners, balloons, or temporary signs or any other item or structure shall extend higher than the bottom of the second floor of the Buildings so as to obstruct the view from the windows on the upper floors of the Building without the written consent of the Board.

There is reserved for the benefit of Unit 1 (including the tenants of Unit 1 ) a right and easement to place signage on the exterior of the Buildings. Such signage (i) shall be installed, repaired, maintained and replaced at the sole cost of the Unit 1 Owner or its respective tenant(s) including all electricity or other energy costs; (ii) shall be properly maintained at all times in first class condition in compliance with all applicable laws; (iii) shall be used only to advertise uses within Unit 1 ; (iv) shall not cause any structural damage or increase any costs of maintenance paid by Owners other than the Unit 1 Owner ; and (v) shall not emit loud noise, smoke or otherwise be unreasonably disruptive to Owners using other Condominium Units for residential

purposes. For so long as the Unit 1 Lease is in effect, any commercial signage (other than for Unit 1) placed on the exterior of the Building must be approved by the Unit 1 Owner.

Section 3.2 above, other provisions of this Declaration and the Plans identify Limited Common Areas and Facilities the use and benefit of which are limited to the Units other than Unit 1 (or to which Unit 1 has only limited rights of usage) such as the elevator, stairways, hallways, etc. To the extent reasonably possible, the Common Expenses attributable to these Limited Common Areas and Facilities shall be allocated and charged to the other Unit Owners but not to the Owner of Unit 1. The Board shall have the right to contract for services requested by or that would benefit Owners other than the Unit 1 Owner (such as valet parking, doorman, security officer), but the expense of such services shall be treated as expenses of Limited Common Areas and Facilities that are chargeable to the Condominium Owners other than the Unit 1 Owner.

By written agreement, the Board shall have the right from time to time to enter into an arrangement with the Unit 1 Owner containing terms different from those contained in this Section 4.10 to provide for more efficient operation and management of the Buildings and for the convenience of the Owners, except that no such agreement shall have a term in excess of two (2) years unless it is adopted as an amendment to this Declaration as provided in Section 9.8. The Board shall also have the right to enter into written agreements with the Unit 1 Owner for providing or sharing services, such as valet parking services.

#### ARTICLE V INCORPORATION OF ASSOCIATION

Section 5.1. Association. Declarant, upon the sale of one (1) or more of the Condominium Units, shall cause to be incorporated a not-for-profit corporation under the laws of the State of Indiana, to be called Meridian Lofts Condominium Owners Association, Inc. which corporation shall be the governing body for all the Owners for the maintenance, repair, replacement, administration and operation of the Property. Upon the formation of the Association, the Declarant and every Owner shall be a member therein, which membership shall automatically terminate upon the sale, transfer or other disposition of such Owner's Condominium Unit, at which time the new Owner shall automatically become a member therein.

All members of the Association shall abide by the rules and regulations of the Association. The operation of the Association shall be more fully described in the By-Laws and its Articles of Incorporation which shall be filed within thirty (30) days after the sale of one (1) or more of the Condominium Units by Declarant. In the event of such incorporation, the By-Laws shall become the By-Laws of the Association. Until such incorporation, there is hereby created an association of Owners to be known as the Meridian Lofts Condominium Owners Association ("Unincorporated Association"). The Declarant and each Owner shall be a member of the Unincorporated Association and the Association, but membership shall terminate when such person ceases to be an Owner. The Association shall elect a Board of Directors in accordance with and as prescribed by the By-Laws.



Until such time as the Association and Board provided for in this Declaration are formed, and until the expiration of the Development Period, the Declarant, or its nominee, shall exercise the power, rights, duties and functions of the Board; provided however, that Declarant may relinquish such powers, rights, duties and functions at any time prior to such time should Declarant deem such action to be reasonable or appropriate.

Section 5.2. Liability Of The Board And Officers. Neither the members of the Board nor the officers of the Association shall be liable to the Owners for any mistake of judgment or for any acts or omissions of any nature whatsoever of such Board members or officers, except for any acts or omissions found by a court to constitute willful misconduct in the performance of duty. The Owners (and, to the extent permitted by law, the Association) shall indemnify and hold harmless each of the members of the Board and each of the officers against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers on behalf of the Owners or the Association, or arising out of their status as Board members or officers, unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of this Declaration. The Board shall have authority to purchase and maintain insurance on behalf of the officers and members of the Board against any liability or settlement based on asserted liability incurred by them by reason of being or having served in such capacity, whether or not the Association would have the power to indemnify them against such liability or settlement under the provisions of this Section 5.2 of this Article.

## ARTICLE VI COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

The Condominium Units and Common Areas shall be occupied and used as follows:

Section 6.1. Each Condominium Unit or any two or more adjoining Condominium Units used together shall be used and occupied in accordance with this Declaration and all statutes, ordinance, rules and regulations of applicable governmental bodies. That part of the Common Areas separating any two or more adjoining Condominium Units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining Condominium Units in such manner and upon such reasonable conditions as shall be determined by the Board in writing.

Section 6.2. There shall be no obstruction of the Common Areas and Facilities, or Limited Common Areas and Facilities serving more than one (1) Condominium Unit, nor shall anything be stored in the Common Areas and Facilities, or Limited Common Areas and Facilities serving more than one (1) Condominium Unit (except in areas designed for such purpose), without the prior written consent of the Board except as hereinafter expressly provided. Owners shall be obligated to maintain and keep in good order and repair their respective Condominium Units.

Section 6.3. Nothing shall be done or kept in any Condominium Unit or in the Common Areas which will increase the rate of insurance on the Property or contents thereof, without the prior written consent of the Board or as otherwise provided herein. Owners shall not permit anything to be done or kept in their respective Condominium Units or in the Common Areas which will result in the cancellation of insurance on the Property, or contents thereof, or which would be in violation of any law. Provided, however, that this Section 6.3 shall not prohibit or adversely affect the operation of a full service kitchen for restaurant purposes within Unit 1. No waste shall be committed in the Common Areas.

Section 6.4. Owners shall be individually responsible for insuring their personal property in their respective Condominium Units, their personal property stored elsewhere on the Property and their personal liability to the extent not covered by the liability insurance for all the Owners obtained by the Board as provided herein.

Section 6.5. Owners shall not cause or permit anything to be placed on the outside walls, doors and windows of the Buildings or in the Common Areas, and no sign, awning, canopy, shutter, air-conditioning unit, radio or television antenna or satellite dish shall be affixed to or placed in, through or upon the exterior walls, doors, windows or roof or any part thereof, without the prior consent of the Board. This provision shall not apply to Unit 1.

Section 6.6. No animals of any kind shall be raised, bred or kept in any Condominium Unit or in the Common Areas, except that dogs, cats or other usual household pets may be kept in Condominium Units, subject to the limitations hereinafter set forth in this Paragraph and to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose. Any such pet kept in violation of the limitations of this Section or in violation of rules and regulations adopted by the Association or the Board or causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon seven (7) days' written notice from the Board.

Section 6.7. No unlawful, noxious or offensive activity shall be carried on in any Condominium Unit or in the Common Areas, nor shall anything be done therein or thereon, either willfully or negligently, which may be or become, in the reasonable judgment of the Board subject to Section 4.14 above, a nuisance to the other Owners or occupants.

Section 6.8. Nothing shall be done in any Condominium Unit or in, on or to the Common Areas which will impair the structural integrity of a Building or which would structurally change a Building except as is otherwise provided herein.

Section 6.9. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Areas. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials which are not in receptacles provided for such purpose.

Section 6.10. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or

otherwise, shall be conducted, maintained or permitted in any Condominium Unit except in compliance with all applicable zoning and other laws. No part of the Property shall be used for any of the uses set forth on Exhibit D without the prior written consent of the Board. Except for Unit 1, during the time that any Condominium Units are used for residential purposes, any business or commercial use shall be reasonably compatible with such residential use, including but not limited to hours of operation, noise and traffic and such use must be in conjunction with a residential use of that Unit. The Board shall have the authority to adopt reasonable and non-discriminatory rules and regulations to assist in providing compatibility of uses in Condominium Units other than Unit 1 .

Section 6.11. No "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part of the Property other than Unit 1 except at such location and in such form as shall be determined by the Board. Other than Unit 1, (i) Condominium Units may not be rented or leased for transient purposes for more than thirty (30) days in any calendar year and (ii) the initial term of any lease of any Condominium Unit must be a minimum of six (6) months , except that an employer owning a Condominium Unit shall have the right to allow its Unit to be occupied by employees and guests that are not charged for use of the Unit.

Section 6.12. Nothing shall be altered or constructed in or removed from the Common Areas, except upon the written consent of the Board.

Section 6.13. Notwithstanding any provision hereof to the contrary, at all times and from time to time until three (3) months after the sale of the last Condominium Unit, Declarant, beneficiaries of Declarant, their agents, successors and assigns, hereby reserve the right: (a) to lease or sell any such Condominium Units; (b) to erect and maintain on the Property all advertising signs, banners, lighting and other sales devices for the purpose of aiding the sale or leasing of Condominium Units on the Property; (c) to maintain sales, management, construction, business and other offices on the Property, including model Condominium Units for display, to facilitate the sale, leasing and management of Condominium Units thereon; and (d) to utilize the Common Areas and Facilities and, as appropriate, the Limited Common Areas and Facilities for ingress and egress in connection with the sale and leasing of Condominium Units on the Property. Declarant shall have the right to relocate any or all of the same from time to time. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Areas, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Property from time to time. Declarant shall not exercise the rights contained in this Section in a manner that would interfere with access, visibility or use in Unit 1.

## ARTICLE VII

### INSURANCE, AND DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDINGS

Section 7.1. Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Property in an amount consonant with the full replacement value of the improvements which, in whole or in part, comprise the Common Areas. If the Association can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the mortgagees of each Condominium Unit upon the following terms and conditions.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association as hereinabove set forth shall be paid to it or to the Board, who shall act as the insurance trustee and hold such proceeds for the benefit of the insured parties. In the event that the Board has not posted surety bonds for the faithful performance of their duties as such trustees or if such bonds do not exceed the funds which will come into its hands, and there is a damage to a part or all of the Property resulting in a loss, the Association or Board shall obtain and post a bond for the faithful performance of its duties as insurance trustee in an amount to be determined by a majority vote of a meeting of the Co-owners but not to exceed 125% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Owners and the respective mortgagees. The proceeds shall be used or disbursed by the Association or Board, as appropriate, only in accordance with the provisions of this Declaration.

Except in the event of a complete destruction of the Building and a decision not to rebuild as described in Section 7.2 below, the interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of each damaged Owner to the damages of all Owners directly damaged by any event insured under the said master casualty insurance policy.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board, its agents and employees, Owners, their respective agents, tenants and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board is able to obtain such insurance upon reasonable terms, (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter

permitted, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Section 7.2 hereunder.

The Co-owners, through the Association, shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board shall deem appropriate from time to time but with minimum limits of Three Million Dollars (\$3,000,000) for personal injury or death and One Million Dollars (\$1,000,000) for property damage. Such comprehensive public liability insurance policy shall cover the Association, the Board, any committee or organ of the Association or Board, any managing agent appointed or employed by the Association, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to Meridian Lofts, all Owners of Condominium Units and all other persons entitled to occupy any Condominium Unit or other portions of Meridian Lofts.

The Association, shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board shall from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned by the Association and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board his right to adjust with the insurance companies all losses under policies purchased by the Board.

The premiums for all such insurance hereinabove described shall be paid by the Association as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner or mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

No Owner or any other party shall have priority over any rights of a mortgagee pursuant to its mortgage in case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any Condominium Unit or Common Area. In no event shall any distribution of proceeds be made by the Board directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the Owner and his mortgagee jointly.

Each Owner shall be solely responsible for and may obtain such additional insurance as he or she deems necessary or desirable at his or her own expense affording coverage upon his personal property, the contents of his Condominium Unit (including, but not limited to, all floor, wall and ceiling coverings, fixtures, betterments and improvements installed by or for him or her) and his or her personal property stored elsewhere on the Property, for his or her personal liability, for any business interruption or other loss in connection with any business being carried

on within any Condominium Unit, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at his own expense upon his or her Condominium Unit but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. The Unit 1 Owner shall carry property insurance and liability insurance covering all furnishings, fixtures, equipment and other business personal property located within such Owner's Unit. The Unit 1 Owner shall be responsible for replacement of all furnishings, fixtures, equipment and other business personal property located within Unit 1. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this section due to proration of insurance purchased by an owner under this section, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

The Board shall also obtain insurance or a surety bond covering each member of the Board, the officers of the Association and such other persons as the Board shall determine to indemnify the Association against acts of fraud or dishonesty by such persons. Such insurance shall, if reasonably possible, contain coverage for any insurance proceeds received. The expenses of such insurance or surety bond shall be a Common Expense.

Section 7.2. Casualty and Restoration.

(a) Except as hereinafter provided, damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose; provided, however, that repair and reconstruction shall not be compulsory in the event of "complete destruction of all of the Buildings" (hereinafter defined) and shall only be done in accordance with the provisions hereinafter set forth. As used herein, the term in complete destruction of all of the Buildings' means a determination, made by a vote of two-thirds (2/3) of all Co-owners at a special meeting of the Association called for the purpose of making such determination, that total destruction of all of the Buildings has occurred. A special meeting of the Association shall be called and held within thirty (30) days after any fire or any other casualty or disaster damaging or destroying a significant portion of the Buildings for the purpose of making the determination of whether or not there has been a complete destruction of all of the Buildings. If such a special meeting is not called and held within such thirty (30) day period, or if the determination of whether or not there has been a complete destruction of all the Buildings has not been made within such thirty (30) day period, then it shall be conclusively presumed that the Co-owners determined that there was not a complete destruction of all of the Buildings, and the Association shall proceed with repair and reconstruction as herein provided.

(b) If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are not insurance proceeds, and if the Property is not to be removed from the condominium regime, the cost for restoring the damage and repairing and reconstructing the Building or Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by all of the Co-owners of Condominium Units in proportion to the ratio that the Percentage Interest of each Condominium Unit bears to the total Percentage Interest of all Condominium Units. Any such amounts payable by the Co-owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein and in the Act.

(c) For purposes of subparagraph (a) and (b) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Condominium Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

(d) If, under subparagraph (a) above, it is determined by the Co-owners at the special meeting of the Association referred to therein that there has been a complete destruction of all of the Buildings, the Co-owners shall, at said same special meeting, vote to determine whether or not such complete destruction of the Building shall be repaired and reconstructed. The Buildings shall not be reconstructed or repaired if it is the determination of the Co-owners at said special meeting that there has been a complete destruction of all of the Buildings unless by a vote of two-thirds (2/3) of all of the Co-owners a decision is made to rebuild, reconstruct and repair the Buildings. If two-thirds (2/3) of all of the Co-owners vote and decide that the Buildings are to be rebuilt, reconstructed and repaired, the insurance proceeds, if any, received by the Association shall be applied and any excess of construction costs over insurance proceeds, if any, received by the Association shall be contributed and paid as hereinabove provided in subparagraphs (a) and (b).

(e) If, in any case of the complete destruction of all of the Buildings, less than two-thirds (2/3) of all of the Co-owners vote in favor of the rebuilding, reconstruction and repair of the Buildings, the Buildings shall not be rebuilt, reconstructed or repaired and, in such event, the Property shall be deemed and considered as to be removed from the provisions of the Act:

(i) the Property shall be deemed to be owned in common by the Condominium Owners;

(ii) the undivided interest in the Property owned in common which shall appertain to each Condominium Unit Owner

shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;

(iii) any liens affecting any of the Condominium Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Condominium Unit Owner in the Property; and

(iv) the Property shall be subject to an action for partition at the suit of any Condominium Unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one (1) fund and shall be divided among all the Condominium Unit Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Property, after first paying out of the respective shares of the Condominium Unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Condominium Unit Owner.

(f) Immediately after a fire or other casualty or disaster causing damage to any property for which the Board or Association has the responsibility of maintenance and repair, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board desires.

(g) The proceeds of insurance collected on account of any such casualty, and the sums received by the Board from collections of assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Building or Buildings are to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:

(i) If the amount of the estimated cost of reconstruction and repair is less than Twenty Thousand Dollars (\$20,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board; provided, however, that upon request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided in the following paragraph (ii).

(ii) If the estimated cost of reconstruction and repair of the Building or other improvement is more than Twenty Thousand Dollars (\$20,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect or engineer



qualified to practice in Indiana and employed by the Board to supervise such work, payment to be made from time to time as the work progresses. The architect or engineer shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (2) that there is no other outstanding indebtedness known to the architect or engineer for the services and materials described; and (3) that the costs as estimated by said architect or engineer for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(iii) Encroachments upon or in favor of Condominium Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Buildings were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Buildings stand.

(iv) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board as a reserve or may be used in the maintenance and operation of the Common Areas, or, in the discretion of the Board of Managers it may be distributed to the Owners in the Buildings affected and their mortgagees who are the beneficial owners of the fund. The action of the Board in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner or committing willful or malicious damage.

(h) If any Condominium Unit or portion thereof or any of the Common Areas is made the subject of a condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority then the affected mortgagee(s) shall be given timely written notice of such proceeding or proposed acquisition. The Association shall represent the Owners in any condemnation proceeding or any negotiation, settlements or agreements with the condemning authority for acquisition of the Common Areas or any part thereof. In the event of a taking or acquisition of part or all of the Common Areas by a condemning authority, the award or proceeds of

settlement shall be payable to the Association to be held in trust for the Owners and their mortgagees as their interest may appear and the provisions of this Declaration relating to restoration and allocation of funds in the event of a casualty shall be applicable in the event of a condemnation.

## ARTICLE VIII

### REMEDIES

Abatement and Enjoinment. The violation of any rule or regulation adopted by the Board, or the breach of any restriction, covenant, By-Law or provision herein contained, shall give the Board the right:

(a) to enter upon that part of the Property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and Declarant, its beneficiaries, successors or assigns, the Board and its agents, shall not thereby be deemed guilty in any manner of trespass; and

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of twelve per cent (12%) per annum until paid, shall be charged to and assessed against such defaulting owner, and shall be added to and deemed part of such defaulting owner's respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Condominium Unit of such defaulting Owner and upon all of the additions and improvements thereto. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

## ARTICLE IX

### GENERAL PROVISIONS

Section 9.1. Board. Until such time as the Board provided for in this Declaration is formed, Declarant, or its nominee, shall exercise and perform the powers, rights, duties and functions of the Board.

Section 9.2. Notices to Mortgagee. Upon written request to the Board, the holder of any duly recorded mortgage secured by any Condominium Unit shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner whose Condominium Unit is subject to such mortgage. Upon written request to the Board, the holder of a recorded first mortgage covering a Condominium Unit shall be given written notice of any

default in the performance by the Owner of such Condominium Unit of any obligation under this Declaration which is not cured within any applicable cure period, or, if there is no such cure period, within sixty (60) days after default.

Section 9.3. Claims of Owners. Each Owner hereby waives and releases any and all claims which such owner may have against any other Owner, occupant, the Association, its officers, members of the Board, the Declarant and its beneficiaries, the managing agent, if any, and their respective employees and agents, for damage to the Common Areas and Facilities, the Condominium Units, or to any personal property located in the Condominium Units or Common Areas and Facilities, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

Section 9.4. Notices. Notices provided for in this Declaration and in the Act shall be in writing, and shall be addressed to the Board or Association, or any Owner, as the case may be, at the address of the Association as provided in the By-Laws, or the address of the respective Condominium Unit, if addressed to an Owner, or at such other address as herein provided. The Association or Board may designate a different address for notices by giving written notice of such change of address to all Owners. Any Owner may also designate a different address for notices by giving written notice of such change of address to the Board or Association. Notices addressed as above shall be deemed delivered when mailed by United States first class mail, or when delivered in person with written acknowledgment of the receipt thereof, or, if addressed to an owner, when deposited in the mailbox or at the door of the Owner's Condominium Unit.

Section 9.5. Notices to Estate. Notices required to be given any devisee, heir or personal representative of a deceased Owner may be delivered either personally or by mail to such party at the address appearing in the records of the Court wherein the estate of such deceased Owner is being administered.

Section 9.6. Acceptance of Declaration by Subsequent Grantees. Each grantee of the Declarant, and each subsequent grantee, by the acceptance of a deed of conveyance, each purchaser, and each tenant under a lease for a Condominium Unit, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the Property, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance and lease.

Section 9.7. No Waiver. No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 9.8. Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(a) Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.

(b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Managers or Owners having in the aggregate at least a majority of the Percentage Vote.

(c) Meetings. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.

(d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five per cent (75%) in the aggregate of the Percentage Vote. In the event any Condominium Unit is subject to a first mortgage, such mortgagees shall be notified of the meeting and the proposed amendment in the same manner as an Owner if such mortgagees have given prior notice of its mortgage interest to the Board in accordance with the provisions of the By-Laws. During the Development Period, no Amendment shall be effective without the written consent of Declarant.

(e) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the Percentage Interest with respect to any Condominium Unit or the applicable share of an owner's liability for the Common Expenses, without the approval of one hundred per cent (100%) of the Co-owners, (2) the provisions of Article VII of this Declaration with respect to reconstruction or repair in the event of fire or any other casualty or disaster, without the unanimous approval of all mortgagees whose mortgage interests have been made known to the Board in accordance with the provisions of the By-Laws (3) the provisions of Section 4.14 without the written consent of the Owner of Unit 1 and for so long as the Unit 1 Lease is in effect without the written consent of the tenant under the Unit 1 Lease (4) the appearance, function or structure of the Building in a way which unreasonably and adversely impacts the ability of the Owner of Unit 1 to operate Unit 1 as a commercial unit (or the tenant of Unit 1 to operate its business within Unit 1) without the written consent of the Unit 1 Owner or (5) the area of Unit 1, the Limited Common Area for Unit 1 or adds Common Area that would materially increase the assessments to the Unit 1 Owner without the written consent of the Unit 1 Owner.

(f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the office of

the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

(g) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have the right acting alone and without the consent or approval of the Co-owners, the Association, the Board, any mortgagees or any other person to amend or supplement this Declaration from time to time if (i) such amendment or supplement is necessary to conform this Declaration to the Act, as amended from time to time, or (ii) such amendment is recorded prior to the date on which the Development Period ends and for so long as the Unit 1 Lease is in effect, if such amendment modifies any of the rights or places any additional burdens on the tenant under the Unit 1 Lease then the written consent of the tenant under the Unit 1 Lease shall be required.

Section 9.9. No Impairment. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.


Section 9.10. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class residential condominium project.

Section 9.11. Plans. The Plans setting forth the layout, location, identification numbers and dimensions of the Condominium Units and the Property are incorporated into this Declaration by reference, and have been filed in the office of the Recorder of Marion County, Indiana as Instrument Number 2004-188396 Plot on \_\_\_\_\_, 2004.  
2004-18838 Floor Plans

IN WITNESS WHEREOF, the Declarant, CDD Holdings, LLC, has caused this Declaration to be signed this 24<sup>th</sup> day of September, 2004.

CDD Holdings, LLC

By: \_\_\_\_\_

  
L. C. DUNKERLEY

Its: \_\_\_\_\_

MEMBER

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared LL Dunkerly, the Member of CDD Holdings, LLC and having been duly sworn, acknowledge the execution of the foregoing Declaration for and on behalf of said limited partnership.

GIVEN under my hand and Notarial Seal this 24<sup>th</sup> day of September 2004.

Heidi Stephens  
( Heidi Stephens ) Notary Public

My Commission Expires:

8/16/06

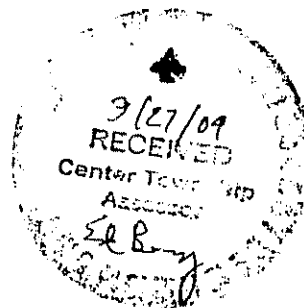
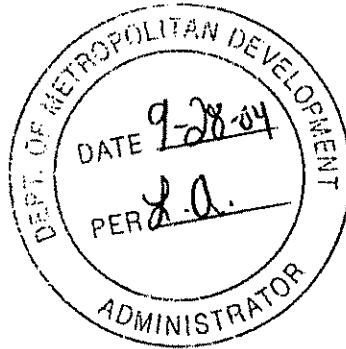
My County of Residence:

Hancock

This instrument was prepared by John W. Van Buskirk, Attorney.

T/06 condo doc 9-15

MARTHA A. HERRICKS  
Notary Public  
9/27/09 09:03:15



## **LIST OF EXHIBITS**

- |           |   |
|-----------|---|
| Exhibit A | Legal Description of the Real Estate  |
| Exhibit B | Legal Description of the Units, Square Footage of Units and Percentage Interests of the Units |
| Exhibit C | By-Laws   |
| Exhibit D | Prohibited Uses   |

EXHIBIT "A"

The land referred to in this Commitment is described as follows:

Parcel I:

Part of Square No. 86 of the Donation Lands to the City of Indianapolis, Marion County, Indiana, being more particularly described as follows:

Beginning at the Northwest corner of said Square No. 86, said point being the intersection of the South right-of-way of Georgia Street and the East right-of-way of Meridian Street as now located; thence South along the East line of Meridian Street and along the West face of an existing (4-story) building 40.20 feet to an apparent division line between (2) buildings commonly known as 201 and 207 South Meridian Street in the City of Indianapolis, Indiana, thence East along said division line and parallel to the South line of Georgia Street, 196.09 feet to the East face and apparent division line of said buildings, said point also being the West line of an alley as now located, thence North along said West alley line 40.12 feet to the South line of said Georgia Street; thence West along the aforesaid South line, 196.21 feet to the Beginning.

Parcel II:

Part of Square No. 86 of the Donation Lands to the City of Indianapolis, Marion County, Indiana, being more particularly described as follows:

Commencing at the Northwest corner of said Square No. 86, said point being the intersection of the South right-of-way of Georgia Street and the East right-of-way of Meridian Street as now located; thence South along the East line of Meridian Street and along the west face of a (4-story) building, 40.20 feet to an apparent division line between (2) buildings commonly known as 201 and 207 South Meridian Street in the City of Indianapolis, said point being the Point of Beginning of the following described real estate; thence East along said division line and parallel to the South line of Georgia Street, 196.09 feet to the East face and apparent division line of said buildings, said point also being the West line of an alley as now located, thence South along said West alley line, 32.09 feet to another apparent division line between the South adjoining building commonly known as 217 South Meridian Street in Indianapolis, Indiana; thence West along said division line and parallel with the South line of Georgia Street, 196.00 feet to the West face and apparent division line of said buildings; thence North along the East line of said Meridian Street and face of said building, 32.16 feet to the Point of Beginning.



**EXHIBIT B**

<b><u>Legal Description</u></b>	<b><u>Square Footage</u></b>	<b><u>Percentage Interest</u></b>
Unit 1	8,712	22.12%
Unit 2A	1,255	3.19%
Unit 2B	1,834	4.66%
Unit 2C	1,770	4.49%
Unit 2D	1,586	4.03%
Unit 2E	1,598	4.06%
Unit 2F	2,457	6.24%
Unit 3A	1,255	3.19%
Unit 3B	1,834	4.66%
Unit 3C	1,770	4.49%
Unit 3D	1,586	4.03%
Unit 3E	1,598	4.06%
Unit 3F	1,687	4.28%
Unit 4A	1,965	4.99%
Unit 4B	1,834	4.66%
Unit 4C	1,770	4.49%
Unit 4D	1,586	4.03%
Unit 4E	1,598	4.06%
Unit 4F	1,687	4.28%
Total Condo Units	39,382	100%

**EXHIBIT C**  
**CODE OF BY-LAWS**  
**OF**  
**MERIDIAN LOFTS CONDOMINIUM OWNERS' ASSOCIATION, INC.**

ARTICLE I

Identification

Section 1.1. Name. The name of the Association is the Meridian Lofts Condominium Owners' Association, Inc. (hereinafter referred to as the "Association").

Section 1.2. Resident Office and Resident Agent. The post-office address of the resident office of the Association is Larry L. Dunkerly; and the name and post-office address of its Resident Agent in charge of such office is 29 Carnaby Drive, Brownsburg, Indiana 46112.

Section 1.3. Fiscal Year. The fiscal year of the Association shall begin at the beginning of the first day of January in each year and end at the close of the last day of December next succeeding.

Section 1.4. Adoption and Declaration. These By-Laws are adopted simultaneously with the execution of a certain Declaration of Condominium Ownership and of Easements, Restrictions, Covenants and By-Laws for Meridian Lofts Condominium ("Declaration"), to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference and all of the covenants, rights, restrictions, and liabilities therein shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is made to Section 1.1 of the Declaration containing certain definitions.

ARTICLE II

Association Members

Section 2.1. Membership. The Declarant, every Owner and the members of the first Board of Directors of the Corporation as specified by its Articles of Incorporation or their successors as appointed hereunder shall be Members of the Association ("Member").

Section 2.2. Place of Meeting. All meetings of the Members of the Association shall be held on the Property, or at such other reasonable place as may be determined by the Board of Directors and specified in the notices or waivers of notice thereof or proxies to represent Members at such meetings.

Section 2.3. Annual Meetings. The initial meeting of the Members shall be held upon ten (10) days' written notice given by Declarant. Such written notice may be given at any time after at least 75% of the Condominium Units are occupied by Owners, but must be given not later than thirty (30) days after 90% of the Condominium Units are occupied by Owners or thirty (30) days prior to the end of the Development Period, whichever first occurs. The formation of the Association by Declarant shall not require Declarant to call the initial meeting of the Members any earlier than provided in the preceding sentence. Thereafter, there shall be an annual meeting of the Members on the first Tuesday of October following such initial meeting, and on the first Tuesday of October of each succeeding year thereafter at 7:30 P.M., or at such other reasonable time or date (not more than thirty (30) days before or after such date) as may be designated by written notice of the Board delivered to the Members not less than ten (10) days prior to the date fixed for said meeting.

Section 2.4. Special Meetings. Special meetings of the Members may be called at any time for the purpose of considering matters which require the approval of all or some of the Members or for any other reasonable purpose. Any such Special Meeting shall be called by written notice, authorized by a majority of the Board, or by the Members having an aggregate Percentage Interest equal to or exceeding twenty-five percent (25%), and delivered not less than ten (10) days prior to the date fixed for such meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

Section 2.5. Emergency Matters. The Board may take action in good faith during an emergency without a meeting or notice to the Members.

Section 2.6. Notice of Meetings. Written or printed notice stating the place, day and hour of a meeting and, in case of a special meeting, the purpose or purposes for which such meeting is called shall be delivered or mailed by the Secretary of the Association to each Member of record of the Association entitled to vote at the meeting, at such address as appears on the records of the Association, at least ten (10) days before the date of the meeting. Notice of any meeting of the Members may be waived in writing by any Member if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called and the time and place thereof. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.7. Voting at Meetings.

(a) Voting Rights. There shall be one person with respect to each Condominium Unit who shall be entitled to vote at any meeting of the Members. Such person shall be known as a "Voting Member". Such Voting Member may be the Owner or one of the group composed of all the Owners of a Condominium Unit, or may be some person designated by such Owner or Owners to act as proxy on his/her or their behalf. Any or all of such Voting Members may be present at any meeting of the Voting Members and may vote or take any action as a Voting Member, either in person or by proxy. The total number of votes of all Voting Members shall be one hundred (100) and each Owner or group of Owners shall be

entitled to the number of votes equal to the Percentage Interest applicable to his/her or their Condominium Unit as set forth in Exhibit B attached to the Declaration. Declarant (or its nominee) may exercise the voting rights with respect to any Condominium Unit owned by it.

(b) Proxies. A Voting Member is entitled to vote either in person or by proxy, executed in writing by such Voting Member or by his or her duly authorized attorney-in-fact and delivered to the secretary of the meeting. Proxies shall be valid only for the particular meeting designated thereon and must be filed with the Secretary before the scheduled time of the meeting. In any meeting of the Voting Members called for the purpose of electing members of the Board of Directors of the Association, each Voting Member shall be permitted to cast the number of votes to which he is entitled, as hereinabove set forth, for each Member of the Board of Directors of the Association to be elected at such meeting.

(c) Quorum and Adjournments. The presence in person or by proxy of the Voting Members having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Voting Members at which a quorum is present upon the affirmative vote of the Voting Members having a majority of the total votes present at such meetings. Any meeting of the Voting Members, including both annual and special meetings and any adjournments thereof, may be adjourned to a later date without notice other than announcement at the meeting, even though less than a quorum is present.

Section 2.8. List of Voting Members. At least five (5) days before each meeting of Members, the Secretary shall prepare or cause to be prepared a complete list of the Voting Members of the Association entitled to vote at such meeting arranged in alphabetical order with the address and the applicable Percentage Interest. Such list shall be on file in the principal office of the Association and shall be subject to inspection by any Member. The original or duplicate membership register shall be the only evidence as to the persons who are entitled as Members to examine such lists, or to vote at such meeting.

Section 2.9. Action by Written Consent. Any action required or permitted to be taken at any meeting of the Members may be taken without a meeting, if prior to such action, a written consent thereto, setting forth the action so taken, is signed by all the Voting Members entitled to vote with respect to the subject matter thereof, and such written consent is filed with the minutes of the proceedings of the Members. Such consent shall have the same effect as a unanimous vote of the Voting Members.

### ARTICLE III

#### Board of Directors

Section 3.1. Number, Term of Office and Qualifications. The Board of Directors shall consist of three (3) Owners except for the Board Members nominated or designated by Declarant. The terms of at least one-third (1/3) of the members of the Board shall expire annually. Directors shall serve without compensation. The Board shall be elected by the Voting Members at their annual meeting and shall hold office until the next ensuing annual meeting of the Voting Members or until their successors have been duly elected and qualified. If a member of the Board of Directors shall cease to meet any qualification herein required for a member of the Board, such member shall thereupon cease to be a member of the Board and his place on the Board shall be deemed vacant. The Voting Members may remove any member of the Board with or without cause, and elect a successor at a meeting of the Voting Members called expressly for such purpose.

Section 3.2. Vacancies. Vacancies occurring in the membership of the Board of Directors caused by resignation, death or other incapacity, or increase in the number of members of the Board shall be filled by a majority vote of the remaining members of the Board, and each member so elected shall serve until the next meeting of the Voting Members, or until his successor shall have been duly elected and qualified. Notice specifying any increase in the number of members of the Board and the name, address and principal occupation of and other pertinent information about any member elected to fill any vacancy shall be given in the next mailing sent to the Voting Members after such increase or election.

Section 3.3. Annual Meetings. The Board of Directors shall meet annually, without notice, immediately following and at the same place as, the annual meeting of the Voting Members.

Section 3.4. Regular Meetings. Regular meetings shall be held at such times and places, either within or without the State of Indiana, as may be determined by the President or Board of Directors.

Section 3.5. Special Meetings. Special meetings of the Board of Directors may be called by the President or by two (2) or more members of the Board, at any place within or without the State of Indiana, upon twenty-four (24) hours' notice specifying the time, place and general purposes of the meeting, given to each personally, by telephone or telegraph; or notice may be given by mail if mailed at least three (3) days before such meeting.

Section 3.6. Waiver of Notice. Any member of the Board of Directors may waive notice of any meeting in writing. Attendance by a member at any meeting shall constitute a waiver of notice of such meeting.

Section 3.7. Quorum. A majority of the entire Board of Directors then qualified and acting shall constitute a quorum and be sufficient for the transaction of any business, except for filling of vacancies in the Board of Directors which shall require action by a majority of the remaining members of the Board. Any act of the majority of the members of the Board present at a meeting at which a quorum shall be present shall be the act of the Board unless otherwise provided for by law or by these By-Laws. A majority of the members present may adjourn any

meeting from time to time. Notice of an adjourned meeting need not be given other than by announcement at the time of adjournment.

Section 3.8. Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting, if prior to such action, a written consent thereto is signed by all the members of the Board or of such committee, as the case may be, and such written consent is filed with the minutes of the proceedings of the Board.

Section 3.9. Initial Board of Directors. Notwithstanding anything in this Article III, these By-Laws or the Declaration to the contrary, the first Board of Directors shall be appointed by the Declarant and hold office until the earlier of his or her resignation, death, or removal by the Declarant, or until the expiration of the Development Period. Any vacancy created by the resignation, death or removal of an initial Director shall be filled by appointment of those initial Directors remaining with the consent of the Declarant.

## ARTICLE IV

### Officers

Section 4.1. Number of Officers. The officers of the Association shall consist of a President, a Secretary, a Treasurer and such officers or assistant officers as the Board shall from time to time create and so elect. Any two (2) or more offices may be held by the same person. The President shall be chosen from among the members of the Board. Officers shall serve without compensation unless such compensation is approved by the Voting Members holding a majority of the total votes.

Section 4.2. Election and Terms. Each officer shall be elected by the Board of Directors at the annual meeting thereof and shall hold office until the next annual meeting of the Board or until his successor shall have been elected and qualified or until his death, resignation or removal. Any officer may be removed at any time, with or without cause, by vote of a majority of the whole Board, but such removal shall be without prejudice to the contract rights, if any, of the person so removed; provided, however, that election of an officer shall not of itself create contract rights.

Section 4.3. Vacancies. Whenever any vacancy shall occur in any office by death, resignation, increase in the number of officers of the Association, or otherwise, the same shall be filled by the Board of Directors, and the officer so elected shall hold office until the next annual meeting of the Board or until his or her successor is duly elected or appointed.

Section 4.4. President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the Voting Members and of the Board of Directors; shall have general and active supervision, control and management of the affairs and business of the Association, subject to the orders and resolutions of the Board; shall have general supervision and direction of all officers, agents and employees of the Association; shall see that all orders and resolutions of the Board are carried into effect; and in general shall exercise all powers and perform all duties incident to such office and such other powers and duties as may from time to time be assigned to him by the Board.

The President shall have full authority to execute proxies in behalf of the Association, to execute, with the Secretary, powers of attorney appointing other associations, corporations, partnerships, or individuals the agent of the Association, all subject to the provisions of The Indiana Horizontal Property Act, as amended, the Declaration and this Code of By-Laws.

Section 4.5. Secretary. The Secretary shall attend all meetings of the Board and of the Voting Members and shall act as Secretary at such meetings; shall give or cause to be given all notices provided for in these By-Laws or required by law; shall record all votes and the minutes of all proceedings of the meetings of the Members and the Board in a book or books to be kept for that purpose and wherein resolutions shall be recorded; shall be custodian of the records of the Association; and, in general, shall exercise all powers and perform all duties as may be from time to time assigned to him or her by the Board or by the President.

Section 4.6. Treasurer. The Treasurer shall keep correct and complete financial records and books of account showing accurately at all times the financial condition of the Association; shall be the custodian of the Association Funds; shall immediately deposit in the name and to the credit of the Association all monies and other valuable effects of the Association in such depositories as may be designated by the Board of Directors; shall disburse the funds of the Association as may be ordered by the Board or by the President; and in general shall exercise all powers, perform all duties customarily incident to such office and such other powers and duties as may from time to time be assigned to him or her by the Board or by the President.

## ARTICLE V

### Books and Records

Section 5.1. Books and Records, in General. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner.

## ARTICLE VI

### Administration

Section 6.1. Board of Directors; Association. The direction and administration of the Property shall be vested in the Association and Board of Directors. Notwithstanding any other provisions herein contained to the contrary, all duties, functions and obligations herein imposed upon the Board are so imposed with the express understanding that the Board is the governing body and agent of the Owners and the Association.

Section 6.2. Determination of Board to be Binding. Notwithstanding that the words "Board" and "Association" may in some instances be used interchangeably in various sections of these By-Laws or the Declaration, matters of dispute or agreement between Owners relating to the Property or with respect to interpretation or application of the provisions of the Declaration or these By-Laws, shall be determined by the Board, which determination shall be final and binding on the Association and on all Owners.

Section 6.3. General Powers of the Board. The Board shall have the following general powers and duties:

- (a) To elect the officers of the Association as hereinabove provided;
- (b) To administer the affairs of the Association and the Property;
- (c) To engage the services of a manager or managing agent who shall manage and operate the Property and the Common Areas and Facilities thereof for all of the Owners, upon such terms and for such compensation and with such authority as the Board may approve (subject to Section 6.6 of this Article);
- (d) To formulate policies for the administration, management and operation of the Property and the Common Areas and Facilities thereof;
- (e) To adopt administrative rules and regulations governing the administration, management, operation and use of the Property and the Common Areas and Facilities and to amend such rules and regulations from time to time;
- (f) To provide for the maintenance, repair and replacement of the Common Areas and Facilities and payments therefor, and to approve payment vouchers or to delegate such approval to the officers of the manager or managing agent;
- (g) To provide for the designation, hiring and removal of employees and other personnel, including accountants, attorneys and other professionals and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Areas and Facilities and to delegate any such powers to



the manager or managing agent (and any such employees or other personnel who may be employees of the managing agent);

(h) To estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses, as hereinafter provided;

(i) To comply with the instructions of a majority of the Owners, as expressed in a resolution duly adopted at any Annual or Special Meeting of the Owners; and

(j) To exercise all other powers and duties of the Board of Directors or Owners as a group referred to in the Indiana Horizontal Properties Act ("Act"), and all powers and duties of a Board of Directors referred to in the Declaration or these By-Laws.

Section 6.4. Specific Powers of the Board. The Board, for the benefit of the Board, the Association and all Owners, shall provide and shall pay for, as Common Expenses, the following:

(a) Utility Service for Common Areas and Facilities. Waste, water removal, electricity, and telephone, heat, power and other necessary utility services for the Common Areas and Facilities (and, if not separately metered or charged, for the Condominium Units);

(b) Casualty Insurance. Insurance for the Property against loss or damage by fire and those perils contained in extended coverage, vandalism and malicious mischief endorsements and such other hazards as the Board may deem desirable, for the full insurable replacement cost of the Common Areas and Facilities and Limited Common Areas and Facilities in accordance with Article VII of the Declaration. Premiums for such insurance shall be common expenses. Such insurance coverage shall be written in the name of, losses under shall be adjusted by, and the proceeds of such insurance shall be payable to, the members of the Board as trustees for each of the Owners and their respective mortgagees as set forth in Article VII of the Declaration. The Board may engage the services of any bank or trust company authorized to do trust business in Indiana to act as trustee, agent or depository on behalf of the Board for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Board shall determine consistent with the provisions of the Act and the Declaration. The fees of such corporate trustee shall be Common Expenses. In the event of any loss in excess of \$50,000.00 in the aggregate, the Board shall engage a corporate trustee as aforesaid upon the written demand of the mortgagee or Owner of any Condominium Unit so destroyed.

The proceeds of such insurance shall be applied by the Board or by the corporate trustee on behalf of the Board for the reconstruction of the Buildings, or shall be otherwise disposed of, in accordance with the provisions of the Declaration and the Act; and the rights of the mortgagee of any Condominium Unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions in the Act with respect to the application of insurance proceeds to reconstruction of a Building. Payment by an insurance company to the Board or to such corporate trustee of the proceeds of any policy, and the receipt of release from the Board of the Company's liability under such policy shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which such proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or to see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee;

(c) Liability Insurance. Comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable but not less than Three Million Dollars (\$3,000,000) for personal injury or death and One Million Dollars (\$1,000,000) for property damage, and other liability insurance as it may deem desirable, insuring each Owner, the Association, its officers, members of the Board, Declarant, the manager and managing agent of the Buildings, if any, and their respective employees and agents, from liability in connection with the Common Areas and the streets and sidewalks adjoining the Property and insuring the officers of the Association and members of the Board from liability for good faith actions beyond the scope of their respective authorities. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The premiums for such insurance shall be Common Expenses;

(d) Workmen's Compensation. Workmen's compensation insurance to the extent necessary to comply with any applicable laws;

(e) Wages and Fees for Services. The services of any person or firm employed by the Board, including, without limitation the services of a person or firm to act as manager or as managing agent for the Property, the services of any person or persons required for maintenance or operation of the Property, and legal and/or accounting services necessary or proper in the operation of the Property or the enforcement of the Declaration and for the organization, operation and enforcement of the rights of the Association;

(f) Care of Common Areas and Facilities. Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the Common Areas and Facilities and such furnishings and equipment for the Common Areas and Facilities as the Board shall determine are

necessary and proper, and the Board shall have the exclusive right and duty to acquire or provide the same for the Common Areas and Facilities;

(g) Additional Expenses. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Board is required to secure or pay for pursuant to the terms of these restrictions or by law or which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a first class condominium project or for the enforcement of the Declaration;

(h) Certain Maintenance of Condominium Units. Maintenance and repair of any Condominium Unit as provided in the Declaration, and maintenance and repair of any Condominium Unit if such maintenance or repair is necessary in the discretion of the Board to protect the Common Areas or any portion of a Building and the Owner or Owners of said Condominium Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair shall have been delivered by the Board to said Owner or Owners, provided that the Board shall levy a special assessment against such Owner for the cost of said maintenance or repair. The Board or its agents may enter any Condominium Unit when necessary in connection with any maintenance or construction for which the Board or Association is responsible; any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund. Except for Unit 1, the Board reserves the right to retain a pass key to each Condominium Unit, and no locks or other devices shall be placed on the doors to the Condominium Units to obstruct entry through the use of such pass key. The Board shall have the right to enter Unit 1 as needed in accordance with Indiana Code 32-25-4-3 and the Board shall make all reasonable attempts to comply with any lease in effect for Unit 1 and to accommodate the reasonable requests of such tenant. In the event of any emergency originating in, or threatening, any Condominium Unit, or in the event of the Owner's absence from the Condominium Unit at a time when required alterations or repairs are scheduled, the management agent or his representative or any other person designated by the Board may enter the Condominium Unit immediately, whether the Owner is present or not;

(i) Capital Additions and Improvements. The Board's powers hereinabove enumerated shall be limited to the extent that the Board shall have no authority to acquire or provide or pay for any capital additions and improvements (other than for purposes of replacing or restoring portions of the Common Areas, subject to the provisions of the Declaration) having a total cost in excess of Twenty-Five Thousand Dollars (\$25,000.00), nor shall the Board authorize any structural alterations, capital additions to, or capital improvements of the Common Areas requiring an expenditure in excess of Twenty-Five Thousand Dollars (\$25,000.00), without in each case the prior approval of the Voting Members holding a majority of the total votes;

(j) Certain Utility Services to Condominium Units. The Board may pay from the maintenance fund for water, taxes, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual Owners. However, the Board may discontinue such payments at any time, in which case each Owner shall be responsible for direct payment of his share of such expenses as determined by the Board. The Board reserves the right to levy additional assessments against any Owner to reimburse it for excessive use by such Owner of any utility service, the expense of which is charged to the maintenance fund.

Section 6.5. Vouchers. All vouchers for payment of expenditures by the Board shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such vouchers shall be signed by the Treasurer and countersigned by the President of the Board.

Section 6.6. Rules and Regulations; Management.

(a) Rules. Subject to the provisions contained in the Declaration with respect to Unit1, The Board may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the property. Written notice of such rules and regulations shall be given to all Owners and occupants and the entire Property shall at all times be maintained subject to such rules and regulations.

(b) Notwithstanding any other provisions herein, the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board; provided, however, that it is expressly understood and agreed that Declarant expressly reserves the right to designate an initial managing agent or agents for a period not to exceed the Development Period and the rights of the Board to designate a different managing agent shall be in all respects subject to any or all contractual rights resulting from such initial designation of managing agent.

(c) Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the owners or any of them.

## ARTICLE VII

### Assessments

Section 7.1. Annual Accounting. Annually, after the close of each fiscal year of the Association, the Board shall cause to be prepared and furnished to each Owner a financial statement which shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 7.2. Proposed Annual Budget. Annually, on or before the end of each fiscal year, the Board of Directors shall adopt an annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year. Such budget may not increase by more than twenty percent (20%) of the previous annual budget without the approval of a majority of the Percentage Vote present at a meeting at which a quorum is present. A copy of such budget shall be furnished to each Owner at or prior to December 15 of each year. The annual budget as presented to the Owners at the annual meeting of the Association shall be the basis for the Regular Assessment (hereinafter defined) during such fiscal year. The annual budget, the Regular Assessment and all sums addressed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessment shall, in addition, be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas shall be maintained by the Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion County, Indiana, selected from time to time by the Board. The failure or delay of the Board of Directors to prepare an annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined.

Section 7.3. Regular Assessments. The annual budget as adopted by the Board shall, based on the estimated cash requirement for the Common Expenses in the current fiscal year as set forth in said budget, contain an assessment against such Condominium Unit and the Percentage Interest appurtenant thereto. Immediately following the adoption of the annual budget, each Owner shall be given written notice of the assessment against his respective Condominium Unit and the Percentage Interest appurtenant thereto (herein called the "Regular Assessment"). The aggregate amount of the Regular Assessment shall be equal to the total amount of expenses provided that included in the final annual budget, including reserve funds as hereinafter provided. The Regular Assessment against each Condominium Unit and the Percentage Interest appurtenant thereto shall be paid in advance in twelve (12) equal monthly installments, commencing on the first day of the first month of each fiscal year and monthly thereafter through and including the first day of the last month of each fiscal year. In the event that the Board has not adopted an annual budget and provided the Owners with notice of the current Regular Assessment prior to the first day of the first month of any fiscal year, then the

current Regular Assessment shall be the amount of the Regular Assessment for the prior fiscal year until such time as the Board approves the annual budget for the current fiscal year and provides the Owners with notice of the current Regular Assessment. The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Condominium Unit and the Percentage Interest appurtenant thereto as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a previous budget and thereafter, before the annual budget and Regular Assessment for the current fiscal year are finally determined and approved, sells, conveys or transfers his Condominium Unit and the Percentage Interest appurtenant thereto or any interest therein, shall not relieve or release such Owner or his successor as owner of such Condominium Unit and the Percentage Interest appurtenant thereto from payment of the Regular Assessment for such Condominium Unit and the Percentage Interest as finally determined, and such Owner and his successor as owner of such Condominium Unit and Percentage Interest appurtenant thereto shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association pursuant to Section 7.06 hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the fiscal year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such fiscal year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determination. Monthly installments of Regular Assessments shall be due automatically on their respective dates without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

Section 7.4. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated or budgeted for may arise. At such time and without the approval of the Owners, unless otherwise provided in these Bylaws, the Declaration or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Condominium Unit and the Percentage Interest appurtenant thereto, prorated in accordance with the Percentage Interest of each Condominium Unit (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures, or to pay for the cost of any repair or reconstruction of damage caused by fire or other causality or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in the Declaration.

Section 7.5. Failure of Owner to Pay Assessments.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and, in the proper case, of the Limited Areas, of the Building, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Condominium Unit

belonging to him. Each Owner shall be personally liable for the payment of all Regular Assessments and Special Assessments which become due and payable during the period in which such Owner holds title to a Condominium Unit. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or Special Assessment when due, the lien for such Assessment on the Owner's Condominium Unit may be filed and foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular Assessment and/or Special Assessment, within ten (10) days after any such Regular Assessment and/or Special Assessment (as applicable) is due; the Board, in its discretion, may impose a late fee as provided in the Declaration and in the event such Owner has been late twice within a fiscal year may accelerate the entire balance of the budgeted and unpaid Regular Assessments and/or Special Assessments, and any and all fines, charges and late fees, applicable to the current full calendar year and all previous calendar years and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Condominium Unit.

(b) Notwithstanding anything contained in this Section or elsewhere in the Declaration and these Bylaws, the lien for any Regular Assessment or Special Assessment shall be subordinate to the lien of any mortgage if and to the extent the mortgage was recorded prior to the due date of any Regular Assessment or Special Assessment, and any sale or transfer of a Condominium Unit to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installments which became due after the recordation of such mortgage; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Condominium Unit, or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be Common Expense, collectible from all Owners (including the party acquiring the subject Condominium Unit from which it arose), as provided in the Act.

Section 7.06. Notice of Unpaid Assessments. The Board shall, upon request of a mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Condominium Unit, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments against the Condominium Unit, which statement shall be finding upon the Association and the Owners, and any Mortgagee

or grantee of the Condominium Unit shall not be liable for, nor shall the Condominium Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 7.03 hereof.

Section 7.07. Notice to Association. Any Owner who places a first mortgage lien upon his Condominium Unit or the mortgagee shall notify the Secretary of the Association thereof and provide the name and address of the mortgagee. A record of such mortgagee and name and address shall be maintained by the Secretary, and any notice required to be given to the mortgagee pursuant to the terms of the Declaration, these Bylaws or the Act shall be deemed effectively given if mailed to such mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of mortgagee are furnished to the Secretary, either by the Owner or the mortgagee, no notice to any mortgagee as may be otherwise required by the Declaration, these Bylaws or the Act shall be required and no mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of the Declaration, these Bylaws, the Act, or proxy granted to such mortgagee in connection with the mortgage.

The Association shall, upon request of a mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under the Declaration or these Bylaws which is not cured within thirty (30) days. Any Mortgagee shall have the right to inspect the books and records of the Association during normal business hours.

A guarantor or insurer or a mortgagee may, upon written request to the Association giving the Association its name and address, receive from the Association any notice that would be given to a mortgagee also be given to the applicable insurer or guarantor.

## ARTICLE VIII

### Execution of Instruments

Section 8.1. Checks, Drafts, Etc. All checks, drafts, bills of exchange or other orders for the payment of money, obligations, notes or other evidences of indebtedness of the Association shall be signed or endorsed by such officer or officers, employee or employees of the Association as shall from time to time be designated by the Board.

Section 8.2. Contracts. All contracts, agreements, deeds, conveyances, mortgages and similar instruments authorized by the Board of Directors shall be signed, unless otherwise directed by the Board or required by law, by the President and attested by the Secretary.

## ARTICLE IX

### Amendments



Section 9.1. Amendments. Subject to any contrary, overriding or superseding provisions set forth herein or in the Declaration (including but not limited to Section 4.14 of the Declaration), these By-Laws may be amended in the same manner, and subject to the same limitations and requirements, as amendments to the Declaration, as set forth in Article IX of the Declaration, including the rights of Declarant to make amendments. Amendments to these By-Laws shall be considered as amendments of the Declaration and shall be recorded in the office of the Recorder of Marion County, Indiana, as required by the Declaration and the Act. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration or these By-Laws prior to the end of the Development Period without the consent and approval of Declarant.

## ARTICLE X

### The Indiana Condominium Laws

The provisions of the condominium laws of the State of Indiana, as amended, applicable to any of the matters not herein specifically covered by these By-Laws, are hereby incorporated by reference in and made a part of these By-Laws.

## EXHIBIT D

### PROHIBITED USES

The PROPERTY shall not be used for any of the following uses without the prior written consent of the Board:

1. Tavern, bar or other drinking establishment unless operated in conjunction with a sit-down dining restaurant; provided, however, this restriction shall not apply to any entity affiliated with Darden Restaurants, Inc.
2. Liquor store, except that this shall not prohibit a wine shop or gourmet type food operation which also sells alcoholic beverages for take-out.
3. Flea Market
4. Dry cleaner; provided, however, this shall not prohibit a dry cleaner offering drop-off and pick-up only or which does not use any chemicals on-site.
5. Pawn shop.
6. Kennel, animal boarding or pet store that keeps animals on site.
7. Any establishment that features or offers topless or nude dancing or performances or any entertainment or activities focused on sexual activities or displays.
8. Any establishment primarily selling or offering X-rated materials, including books, movies or other media.
9. Any use of live or recorded music which would generate audible volume outside the Condominium Unit that would be disruptive to residential uses within the BUILDINGS occurring after 11:00 P.M. Sunday through Thursday and after Midnight on Friday and Saturday.
10. Any establishment having a primary use of video games, pinball machines or other similar mechanical or electrical entertainment.
11. Gun range, shooting range or other activity involving the discharge of firearms.
12. So long as the Unit 1 Lease is in effect, no part of the Building shall be used for the following uses without the prior written consent of the tenant under the Unit 1 Lease: bar/nightclub; restaurant; movie theater; bowling alley; circus; carnival; amusement rides; sale or display of pornographic materials of any kind; massage parlors.

LINDA A. WUMACKS  
MARION COUNTY CLERK  
523560 MAR 17 06  
SOLUTIONS FOR REAL ESTATE TRANSACTION  
SUBJECT TO FINAL ASSURANCE  
FEE REGISTER

5

**FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP  
OF MERIDIAN LOFTS CONDOMINIUM**

Inst # 2006-0037544  
03/17/06 01:57PM HANNA MARTIN MARION CTY RECORDER LNK 18.00 PAGES: 5

This First Amendment is executed as of this 8<sup>th</sup> day of March, 2006 by CDD Holdings, LLC ("Declarant") and witnesses the following:

WHEREAS, Declarant recorded the Declaration of Condominium Ownership and of Easements, Restrictions, Covenants and By-Laws for Meridian Lofts Condominium as Instrument No. 2004-188395 in the Office of the Recorder of Marion County, Indiana ("Declaration") and recorded the plans for Meridian Lofts as Instrument No. 2004-188838 in the Office of the Recorder of Marion County, Indiana ("Plans"); and

WHEREAS, Section 9.8 of the Declaration provides that amendments to the Declaration must be approved by the vote of 100% of the Co-Owners in the event such amendment changes the Percentage Interest with respect to any Condominium Unit; and

WHEREAS, the undersigned constitute all of the Owners of Units in Meridian Lofts and the undersigned consent to this First Amendment.

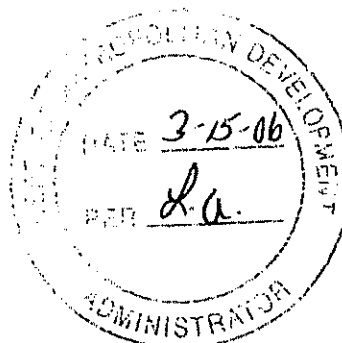
NOW, THEREFORE, Declarant now amends the Declaration as follows:

1. The Plans are amended by the recording of a new set of plans recorded as Instrument No. ~~2005-~~ 2006-0037545 in the Office of the Recorder of Marion County, Indiana ("Amended Plans"). The Amended Plans make minor modifications to the square footage calculations of the Units (other than Unit 1) and add additional area in the attic as Limited Common Area, all as more particularly set forth on the Amended Plans. The Amended Plans replace and supersede the Plans previously recorded.

2. Exhibit B to the Declaration which sets forth the Percentage Interest attaching to each Unit is amended to reflect the new square footage calculations for the Units. The Exhibit B attached hereto now replaces and supersedes the Exhibit B originally attached to the Declaration.

3. Section 4.4 of the Declaration provides for easements for pipes, ducts or conduits that, as a result of construction, may encroach upon other units. A vent pipe serving Unit 1 encroaches upon the storage area which is a part of Unit 4A. This First Amendment confirms that Section 4.4 provides a permanent easement for this vent pipe for the benefit of Unit 1.

IN WITNESS WHEREOF, the parties below confirm the adoption and ratification of this First Amendment.





CDD HOLDINGS, LLC

By: *Larry L. Dunkerly*  
Larry L. Dunkerly, Member

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF Marion )

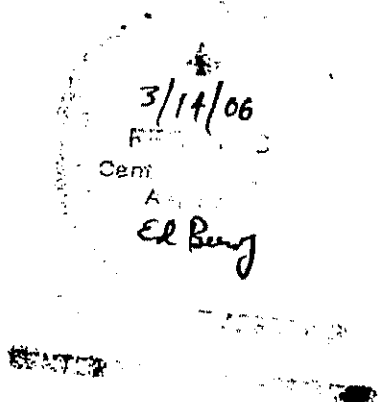
Before me, a Notary Public in and for said County and State, personally appeared Larry L. Dunkerly, who acknowledged the execution of the foregoing document and who, having been duly sworn under the penalties of perjury, stated that the facts and matters therein set forth are true and correct.

WITNESS my hand and Notarial Seal this 8<sup>th</sup> day of March, 2006.

*Heidi Stephens*  
(Heidi Stephens) Notary Public

My Commission Expires:  
8/14/06

My County of Residence is:  
Hancock



This instrument was prepared by John W. Van Buskirk, Attorney at Law, Stark Doninger & Smith, 50 South Meridian Street, Suite 700, Indianapolis, Indiana 46204.

**EXHIBIT B**

<u>Legal Description</u>	<u>Square Footage</u>	<u>Percentage Interest</u>
Unit 1	8,712	22.06
Unit 2A	1,249	3.16
Unit 2B	1,831	4.64
Unit 2C	1,761	4.46
Unit 2D	1,583	4.01
Unit 2E	1,631	4.13
Unit 2F	2,479	6.28
Unit 3A	1,249	3.16
Unit 3B	1,831	4.64
Unit 3C	1,761	4.46
Unit 3D	1,583	4.01
Unit 3E	1,631	4.13
Unit 3F	1,709	4.33
Unit 4A	1,959	4.96
Unit 4B	1,831	4.64
Unit 4C	1,761	4.46
Unit 4D	1,583	4.01
Unit 4E	1,631	4.13
Unit 4F	1,709	4.33
Total Condo Units	39,484	100%

X:T06/Exhibit B

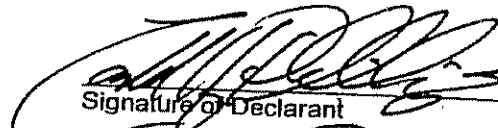
Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-5(a).

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers;
2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.

  
Signature of Declarant  
Todd H. Phillips  
Printed Name of Declarant

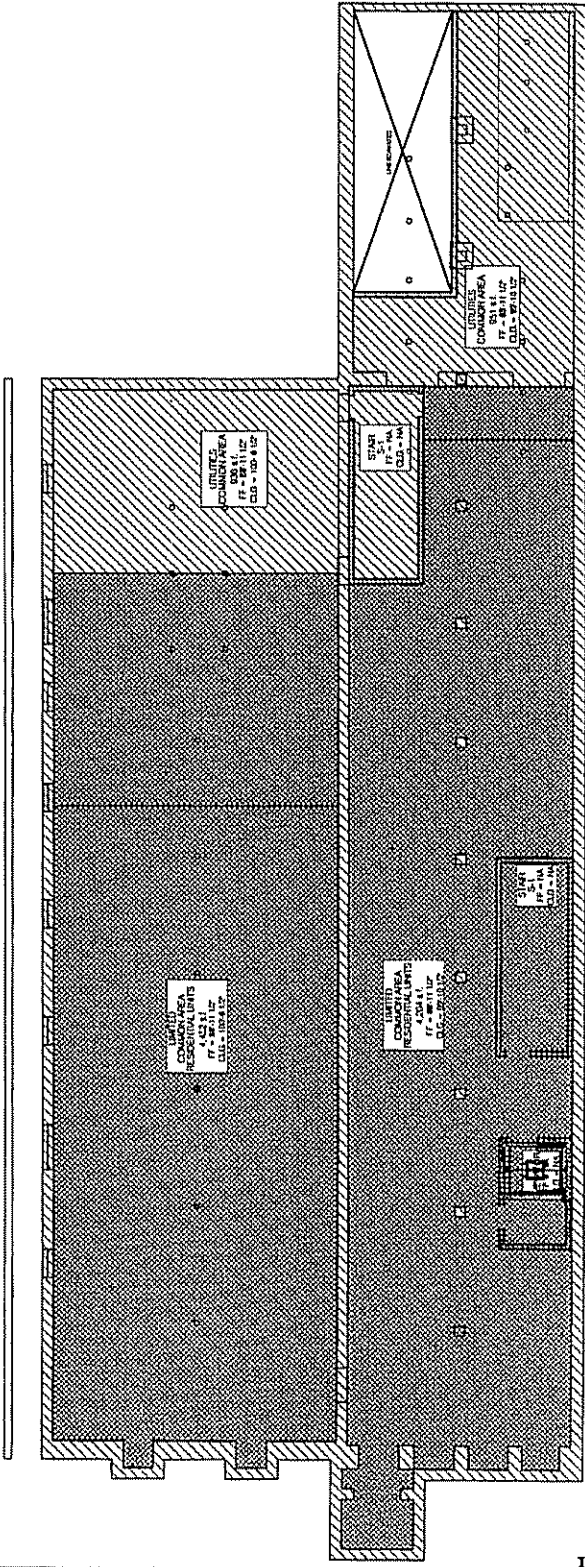
8M

MARTHA A. WOMACKS  
MARION COUNTY SUPERVISOR

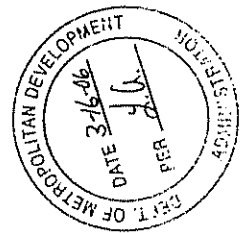
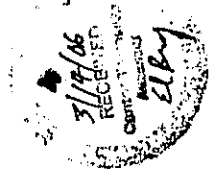
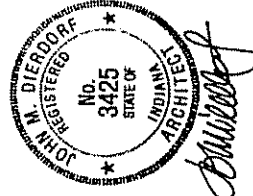
523561 MAR 17 06

APPROVED FOR THE MARION COUNTY BOARD OF SUPERVISORS  
SUBJECT: 011177N MARION COUNTY ZONING ORDINANCE  
FOR TRANSPORT

BROWNING  
DAY MULLINS  
DIERDORF  
ARCHITECTS



FLOOR PLAN  
01 BASEMENT FLOOR  
1/8" = 1'-0"



Inst # 2006-0037545

FIRST AGREEMENT TO  
DECLARATION #  
2006-0037544  
201209 S. MERIDIAN LOFTS

BASEMENT FLOOR PLAN

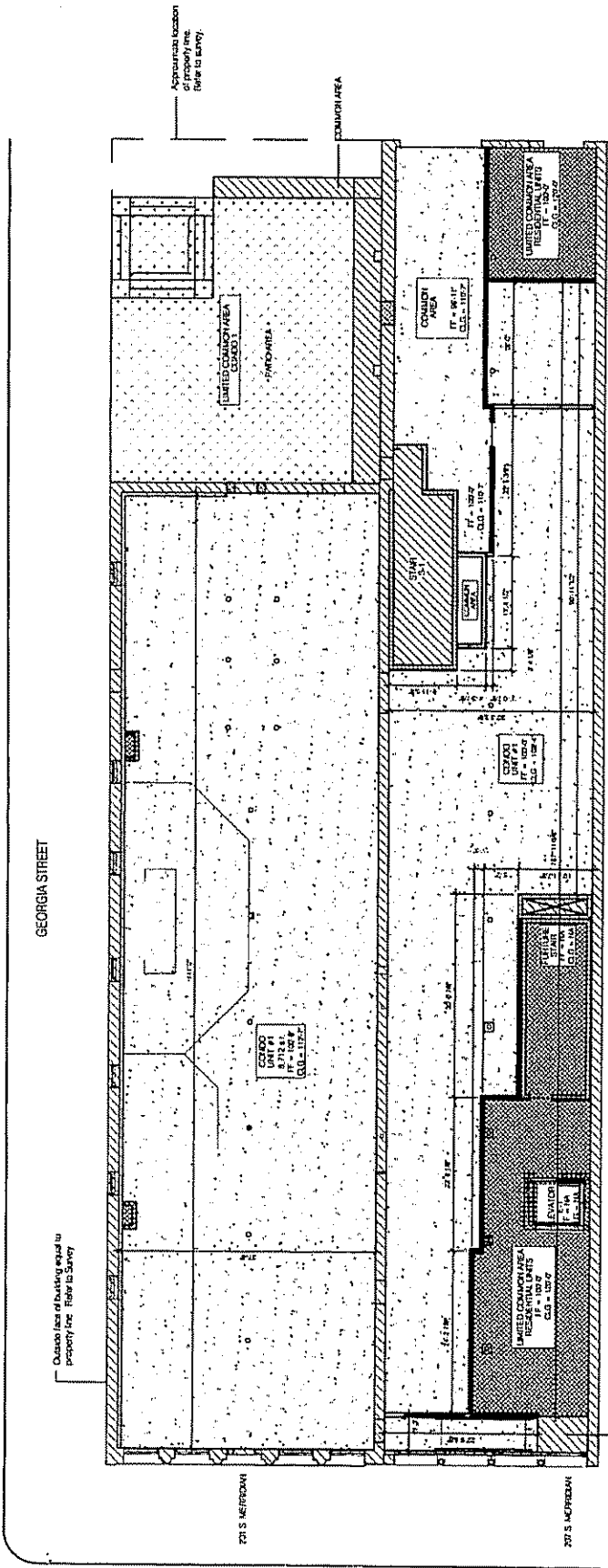
Browning Day Mullins Dierdorf Inc

9.14.04 revised 12.20.05

These documents were prepared by  
Browning Day Mullins Dierdorf Architects.

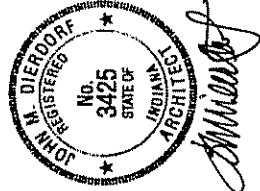
This floor plan is an accurate copy of the plans for the project as shown to the Marion County Board of Supervisors and approved by the Marion County Board of Supervisors for the construction of the building.





01 FIRST FLOOR  
SCALE 1/8" = 1'-0"

- COMMON AREA
- LIMITED COMMON AREA RESIDENTIAL UNITS
- LIMITED COMMON AREA UNIT 1
- CONDO UNIT #1



TOTAL FLOOR PLATE EQUAL TO 12,161 S.F.

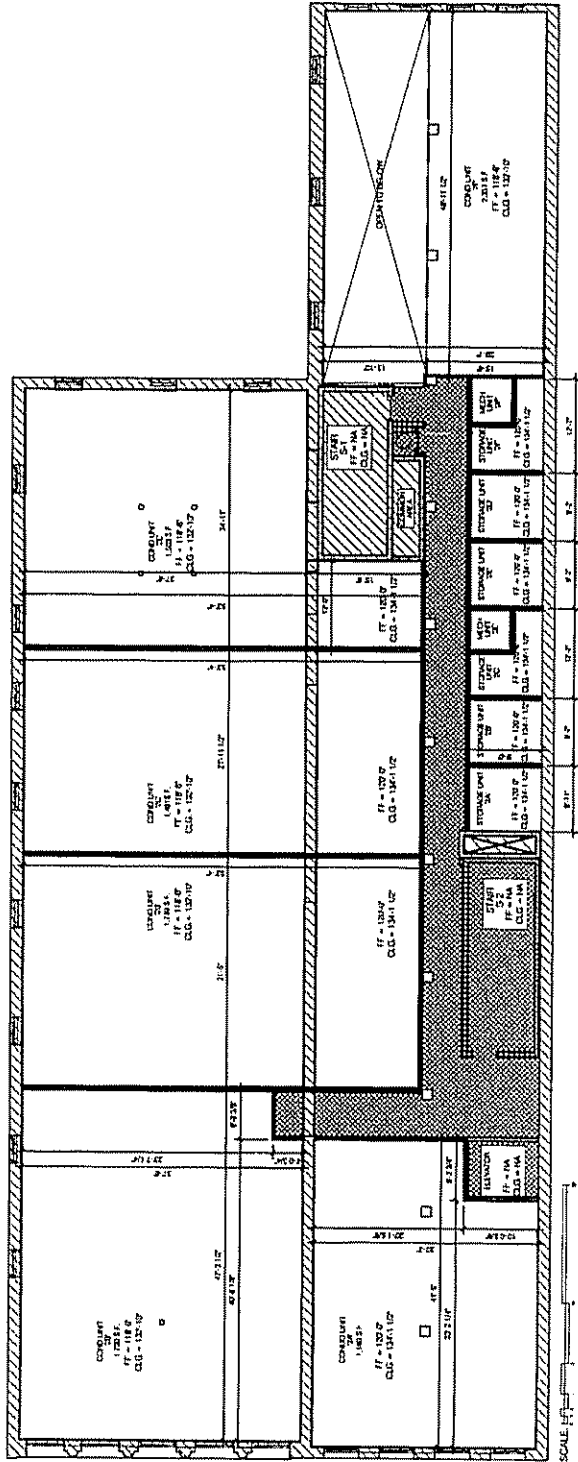
UNIT	UNIT S.F.	STORAGE S.F.	TOTAL S.F.
1	8,712 s.f.	0 s.f.	8,712 s.f.
LCA-RU	1,627 s.f.	0 s.f.	1,627 s.f.
LCA-RU	320 s.f.	0 s.f.	320 s.f.
CA	1,502 s.f.	0 s.f.	1,502 s.f.
			<b>TOTAL S.F. 12,161 s.f.</b>

This floor plan is an accurate representation of the structure of the building as filed with and approved by the appropriate governmental authorities having jurisdiction over the construction of the building.

These documents were prepared by  
Browning Day Mullins Dierdorf Architects.

201/209 S. MERIDIAN LOFTS  
**FIRST FLOOR PLAN**

Browning Day Mullins Dierdorf Inc  
9.14.04 revised 12.20.05

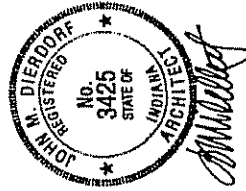


TOTAL FLOOR PLATE EQUAL TO 12,161 S.F.

UNIT	UNIT S.F.	STORAGE S.F.	MECH	TOTAL S.F.
2A	1,160 s.f.	89 s.f.		1,249 s.f.
2B	1,739 s.f.	92 s.f.		1,831 s.f.
2C	1,675 s.f.	86 s.f.		1,761 s.f.
2D	1,491 s.f.	92 s.f.		1,583 s.f.
2E	1,503 s.f.	92 s.f.	36 s.f.	1,631 s.f.
2F	2,351 s.f.	89 s.f.	39 s.f.	2,479 s.f.**
LCA	1,264 s.f.	0 s.f.		1,264 s.f.
CA	1,167 s.f.	0 s.f.		1,167 s.f.
<b>TOTAL S.F.</b>				<b>12,161 s.f.</b>

\*\*NOTE: 804 s.f. loft space s.f. not calculated in total floor plate square footage.\*\*

FLOOR PLAN  
**01**  
SECOND FLOOR  
1/18/12



MEZZANINE FLOOR PLAN  
**02**  
FIRST FLOOR  
1/18/12

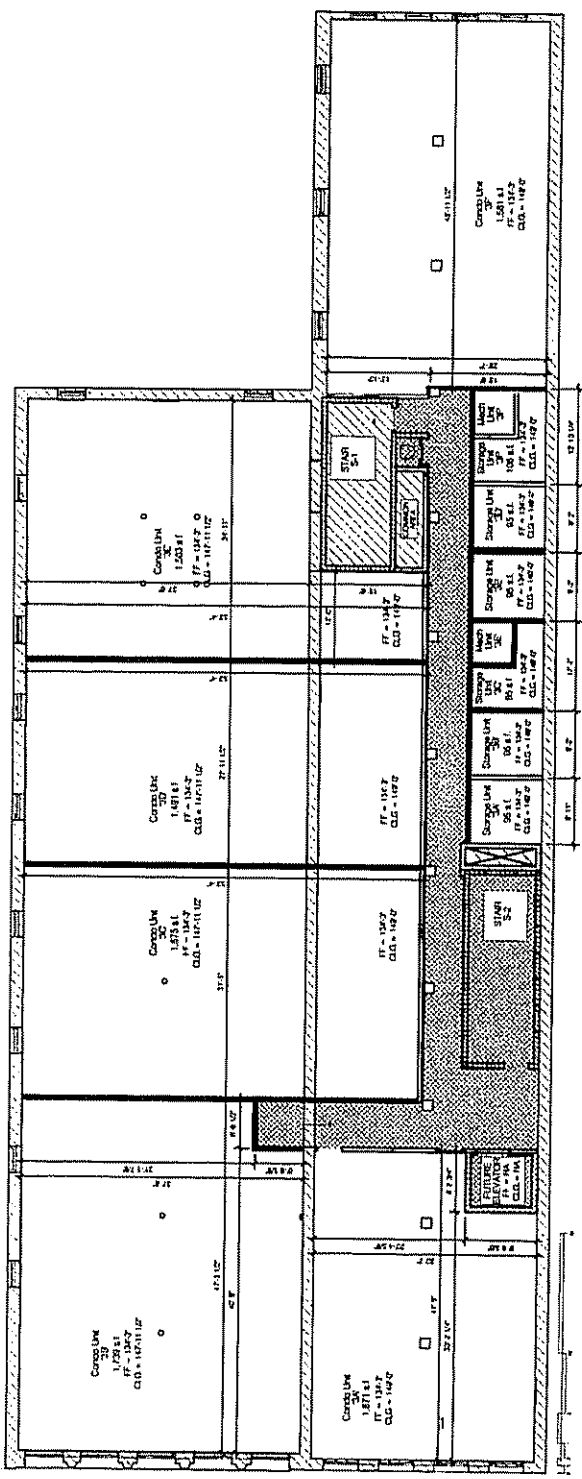
**BROWNING  
DAY MULLINS  
DIERDORF  
ARCHITECTS**

This floor plan is an accurate copy of the portions of the plans for the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of the building.

These documents were prepared by  
Browning Day Mullins Dierdorf Architects.

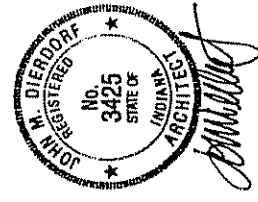
201209 S. MERIDIAN LOFTS  
**SECOND FLOOR PLAN**

Browning Day Mullins Dierdorf Inc 9/14/04 revised 02/03/06



- COMMON AREA
- LIMITED COMMON AREA UNITS 2-19
- LIMITED COMMON AREA UNIT 1
- CONDO UNIT #1

FLOOR PLAN  
01 THIRD FLOOR  
ASB V1P-110



TOTAL FLOOR PLATE EQUAL TO 12,161 S.F.

UNIT	UNIT S.F.	STORAGE S.F.	MECH	TOTAL S.F.
3A	1,160 s.f.	88 s.f.		1,249 s.f.
3B	1,739 s.f.	92 s.f.		1,831 s.f.
3C	1,675 s.f.	86 s.f.		1,761 s.f.
3D	1,491 s.f.	92 s.f.		1,583 s.f.
3E	1,503 s.f.	92 s.f.	36 s.f.	1,631 s.f.
3F	1,581 s.f.	89 s.f.	39 s.f.	1,709 s.f.
LCA-RU	1,264 s.f.	0 s.f.		1,264 s.f.
CA	1,167 s.f.	0 s.f.		1,133 s.f.
				<b>TOTAL S.F.</b>
				12,161 s.f.

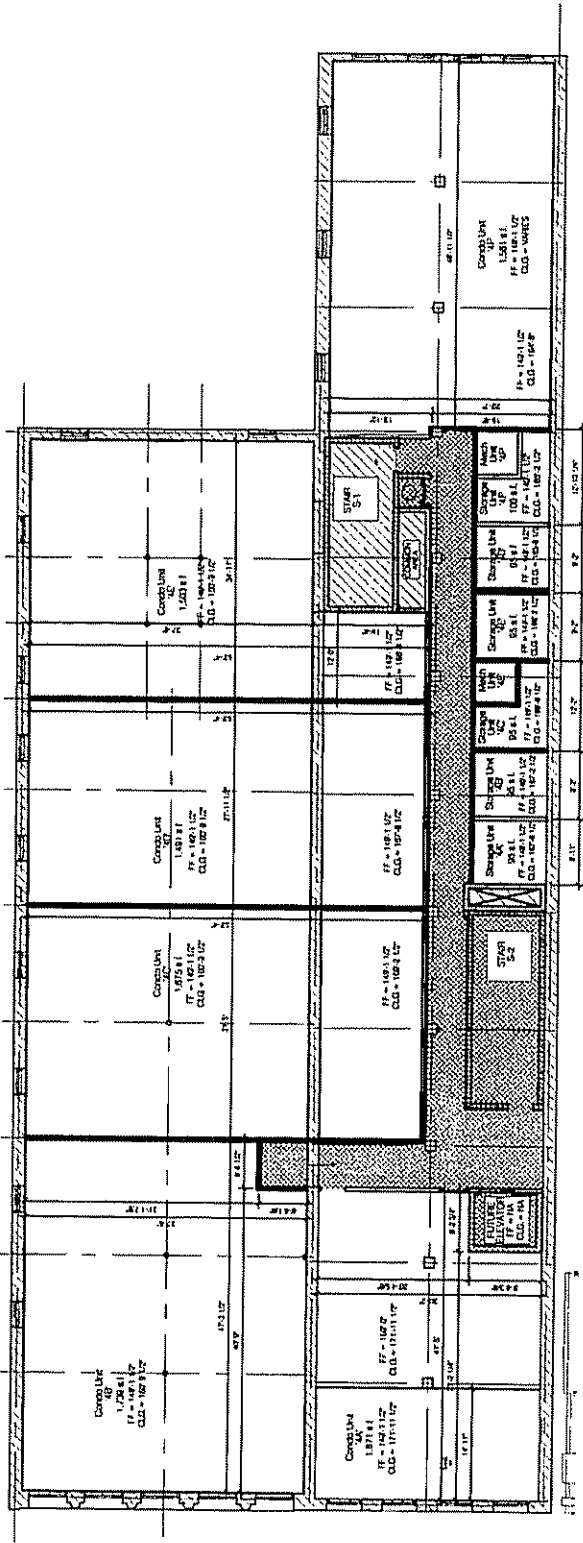
201209 S. MERIDIAN LOFT PROPOSAL  
THIRD FLOOR PLAN

Browning Day Mullins Dierdorf Inc 9.14.04 revised 02.03.06

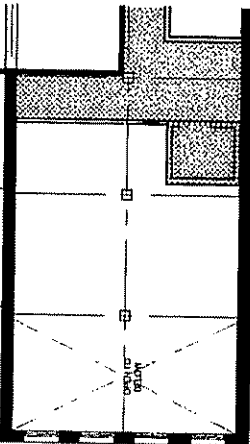
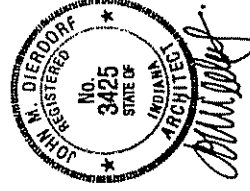
**BROWNING  
DAY MULLINS  
DIERDORF  
ARCHITECTS**

This floor plan is an accurate copy of the portions of the plans by the building as filed with and approved by the local building department. The undersigned hereby certifies that the building is in accordance with the plans as filed with and approved by the local building department for the construction of the building.

These documents were prepared by  
Browning Day Mullins Dierdorf Architects.



FLOOR PLAN -  
**01** FOURTH FLOOR



MEZZANINE FLOOR PLAN  
**02** FOURTH FLOOR

UNIT	UNIT S.F.	STORAGE S.F.	TOTAL S.F.
4A	1,870 s.f.	89 s.f.	1,959 s.f. **
4B	1,739 s.f.	92 s.f.	1,831 s.f.
4C	1,675 s.f.	86 s.f.	1,761 s.f.
4D	1,481 s.f.	92 s.f.	1,573 s.f.
4E	1,500 s.f.	92 s.f.	1,592 s.f.
4F	1,581 s.f.	69 s.f.	1,650 s.f.
	1,264 s.f.	0 s.f.	1,264 s.f.
	1,167 s.f.	0 s.f.	1,167 s.f.
<b>TOTAL</b>			<b>12,161 s.f.</b>

\*\*note: loft space s.f. not calculated in total floor plate square footage. \*\*

**COMMON AREA**

- UNITED COMMON AREA RESIDENTIAL UNITS
- UNITED COMMON AREA UNIT 1
- CONDO UNIT #1

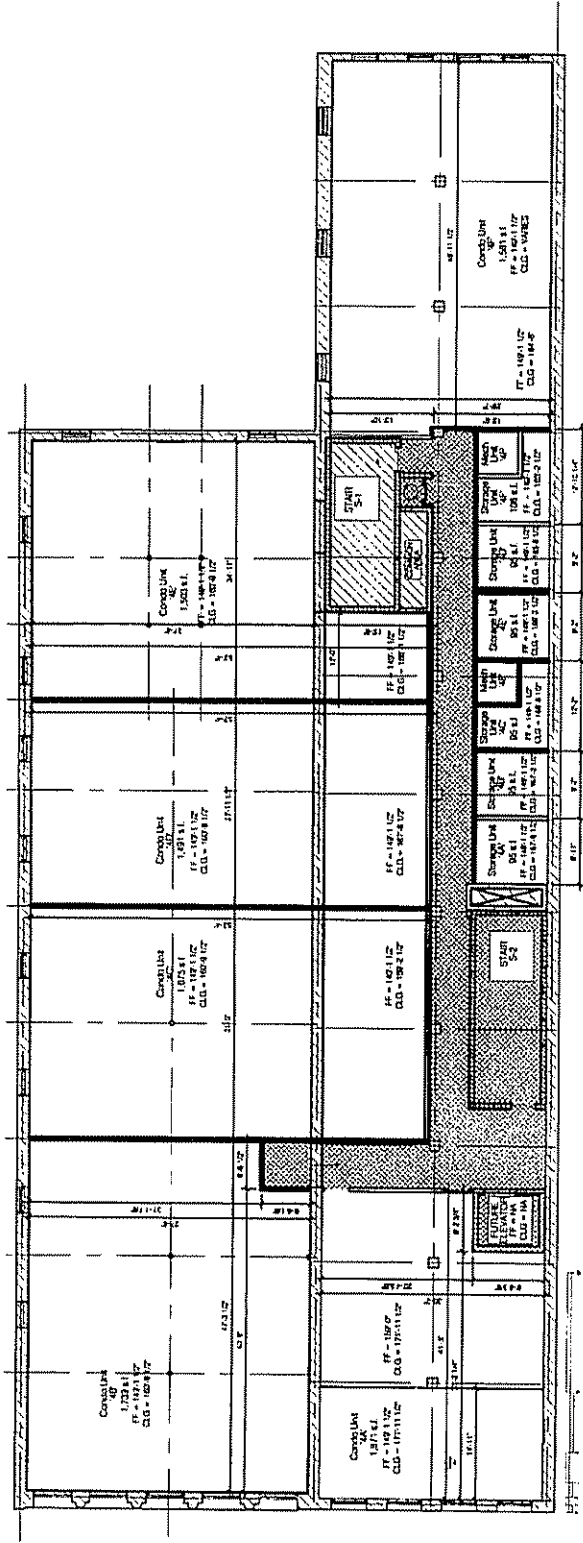
**BROWNING  
DAY MULLINS  
DIERDORF  
ARCHITECTS**

This floor plan is an accurate copy of the building as built and approved by the municipal or other governmental jurisdiction having jurisdiction over the issuance of permits for the construction of the building.

These documents were prepared by  
Browning Day Mullins Dierdorf Architects.

201709 S. MERIDIAN LOFTS  
**FOURTH FLOOR PLAN**

Browning Day Mullins Dierdorf Inc  
9.14.04 revised 02.03.06

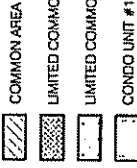


**01 FLOOR PLAN FOURTH FLOOR**



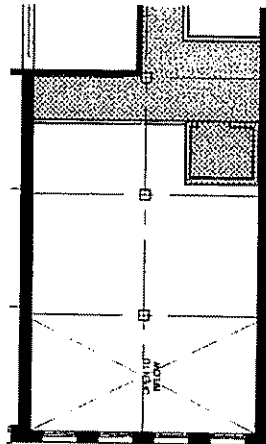
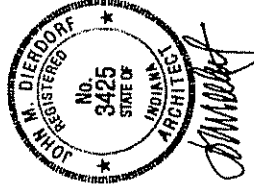
UNIT	UNIT S.F.	STORAGE S.F.	TOTAL S.F.
4A	1,870 s.f.	89 s.f.	1,959 s.f.**
4B	1,739 s.f.	92 s.f.	1,831 s.f.
4C	1,675 s.f.	86 s.f.	1,761 s.f.
4D	1,491 s.f.	92 s.f.	1,583 s.f.
4E	1,503 s.f.	92 s.f.	1,595 s.f.
4F	1,591 s.f.	89 s.f.	1,680 s.f.
	1,264 s.f.	0 s.f.	1,264 s.f.
	1,167 s.f.	0 s.f.	1,167 s.f.
<b>TOTAL S.F.</b>			<b>12,161 s.f.</b>

\*\*note left space s.f. not calculated in total floor plate square footage.\*\*



TOTAL FLOOR PLATE EQUAL TO 12,161 S.F.

01 100'-10"



**02 MEZZANINE FLOOR PLAN FOURTH FLOOR**

02 100'-10"

**201/209 S. MERIDIAN LOFTS  
FOURTH FLOOR PLAN**

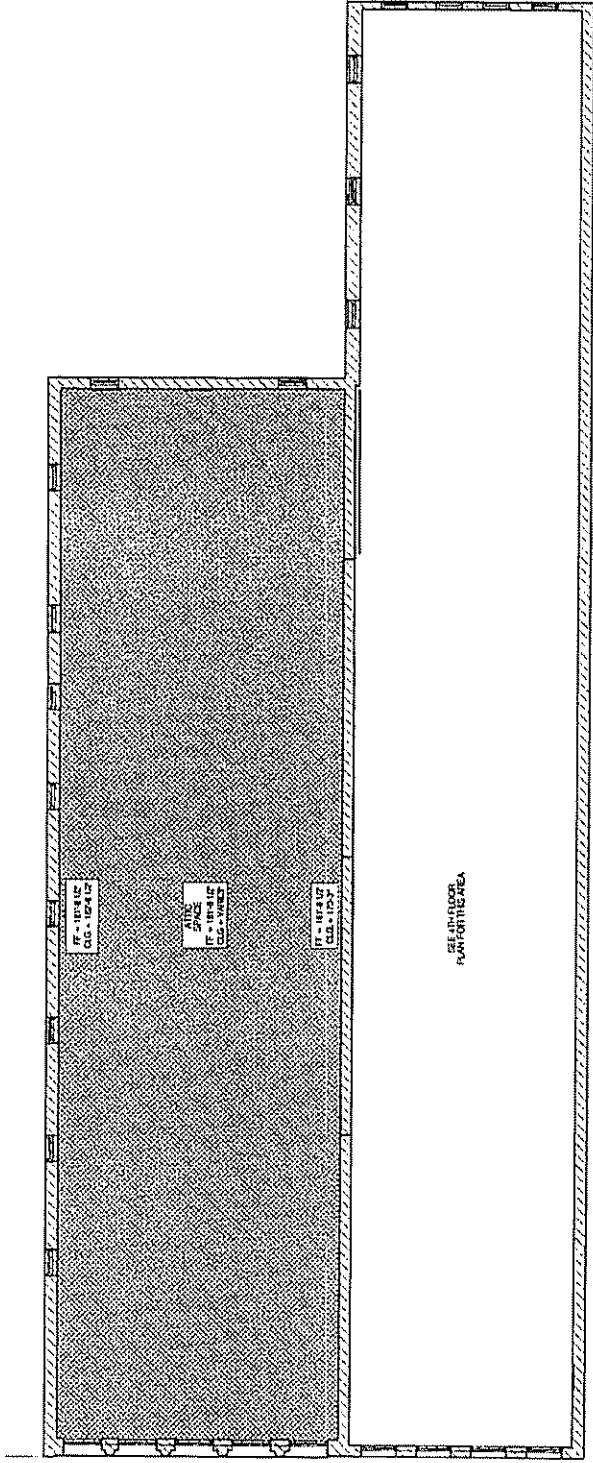
This floor plan is an accurate copy of the portions of the plans for the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of the building.





Browning Day Mullins Dierdorf Inc


9.14.04 revised 02.03.06

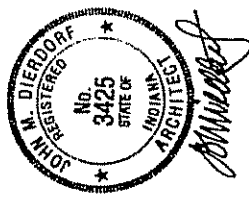
These documents were prepared by  
Browning Day Mullins Dierdorf Architects.

**BROWNING  
DAY MULLINS  
DIERDORF  
ARCHITECTS**



-  COMMON AREA
-  LIMITED COMMON AREA UNITS 2-19
-  LIMITED COMMON AREA UNIT 1
-  CONDO UNIT #1


  
**01** FLOOR PLAN
   
 ATTIC PLAN
   
UNIT # 102



TOTAL FLOOR PLATE EQUAL TO	12,161 S.F.
UNIT	UNIT S.F. STORAGE S.F. TOTAL S.F.
LCA-RU	5,333 s.f. 0 s.f. 5,333 s.f.
	TOTAL S.F. 5,333 s.f.

201209 S. MERIDIAN LOFT PROPOSAL  
**ATTIC PLAN**

Browning Day Mullins Dierdorf Inc 9.14.04 revised 12.20.05

**BROWNING  
 DAY MULLINS  
 DIERDORF  
 ARCHITECTS**

This floor plan is an accurate copy of the portions of the plans for the construction of the building prepared by the governmental subdivision building jurisdiction over the structure of records for the construction of the building.

These documents were prepared by  
 Browning Day Mullins Dierdorf Architects.

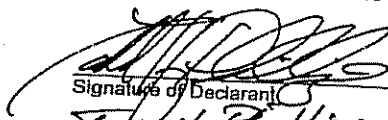
Declaration

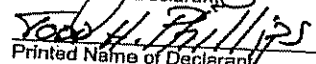
This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-5(a).

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers;
2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.

  
\_\_\_\_\_  
Signature of Declarant

  
\_\_\_\_\_  
Printed Name of Declarant