

~~DULY ENTERED FOR TAXATION~~
 Subject to final acceptance for transfer
 29 day of Dec, 2006
 Robin Miller Auditor of Hamilton County

12/11/06
 DULY ENTERED FOR TAXATION
 Subject to final acceptance for transfer
 5 day of Jan, 2007
 Robin Miller Auditor of Hamilton County

DECLARATION OF
 Parcel # PROMISE ROAD BUSINESS PARK CONDOMINIUMS
 Parcel # _____

This Declaration is for a condominium under the Indiana Condominiums Act, IC 32-25-1, *et seq.* ("Act"), made this 15TH day of DECEMBER 2006, by **Promise Road Business Park, LLC**, an Indiana limited liability company ("Declarant").

1. **DECLARATIONS AND SUBMISSION OF REAL ESTATE UNDER TERMS AND CONDITIONS OF THE INDIANA CONDOMINIUM ACT.** The Declarant, whose principal office and place of business is located at 11073 Lexi Lane, Fortville, Indiana 46040, being the fee simple owner of certain real estate located in Hamilton County, State of Indiana (the "Real Estate"), more particularly described in **Exhibit "A"** attached hereto, by virtue of a Warranty Deed dated on or about July 9, 2006, and recorded on July 18, 2006, as Instrument No. 200600041084 in the records of the Recorder of Hamilton County, Indiana, does on this 15TH day of DECEMBER 2006, create, submit, declare and subject that portion of the Real Estate more particularly described in **Exhibit "B"** attached hereto (the "Tract") to a Condominium regime under the Act, together with the buildings, improvements and appurtenances as shown and depicted on the Plans (defined below) to be known as "**Promise Road Business Park**" (the "Condominiums").

2. **INDIANA CONDOMINIUM LAW.** Declarant further states and expressly declares that the Act is incorporated into and made a part of this Declaration by this reference.

3. **DESCRIPTION OF TRACT.** The Tract upon which the buildings, improvements and appurtenances are to be located is set forth and described in **Exhibit "B,"** and is further described and depicted on the Plans, all of which are incorporated into and made a part of this Declaration by this reference.

4. **DEFINITIONS.** The following terms, as used in the Declaration, unless the context clearly requires otherwise, shall mean the following:

4.1 "**Act**" means the Condominium law of the State of Indiana codified at IC 32-25-1, *et seq.*

4.2 "**Association**" means the "Promise Road Business Park Owner's Association, Inc.," an Indiana not-for-profit corporation more particularly described in Paragraph 19 of this Declaration.

4.3 "**Board of Directors**" means the governing body of the Association, being the initial Board of Directors referred to in the Bylaws or subsequent Board of Directors elected by the Co-Owners in accordance with the Bylaws. The term "Board of Directors," as used in this Declaration and in the Bylaws, shall be synonymous with the term "board of directors" as used in the Act.

4.4 "**Building**" means each structure on the Tract in which any Unit is located. The initial Buildings are more particularly described and identified on the Plans and in Paragraph 5 of this Declaration. "Building" also includes any additional structure containing one or more Units which may be submitted and subjected to the Act and this Declaration by Supplemental

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Declaration as herein provided, and will be identified in Supplemental Declaration and on plans that will be filed therewith.

4.5 “*Bylaws*” means the Bylaws 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 accurate copy of the Bylaws is attached to this Declaration as ***Exhibit “D”*** and incorporated herein by this reference.

4.6 “*Co-Owners*” means the owners of all the Units.

4.7 “*Common Areas*” means the common areas and facilities appurtenant to the Property and consists of and includes all portions of the Property and the Improvements located on the Property, excluding the Units, except as otherwise described in this Declaration and the Bylaws, all as more particularly defined in Paragraph 8 of this Declaration.

4.8 “*Common Expenses*” means expenses of administration of the Association and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, Limited Areas and the Exterior Portion of all Units and all sums lawfully assessed against the Owners by the Association or as declared by the Act, this Declaration or the Bylaws.

4.9 “*Condominium Interest*” shall mean the following:

4.9.1 Fee simple title to a Unit;

4.9.2 An undivided interest, together with all other Owners, in the Common Areas and Limited Areas in the Property;

4.9.3 As set forth herein, an exclusive right to use the areas described in the Declaration, Plans and accompanying documents, as “Limited Areas” and restricted to the use of the Owner’s respective Unit; and

4.9.4 A membership in the Association is subject to the Declaration and the governing documents of the Association, including the Bylaws.

4.10 “*Declarant*” shall mean and refer to ***Promise Road Business Park, LLC***, and any successors and assigns whom such limited liability company designates in one or more written recorded instruments to have the rights of Declarant under this Declaration, including, but not limited to, any mortgagee acquiring title to all or any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant. A mortgagee acquiring title by virtue of foreclosure against the Declarant does not assume the prior obligations or liabilities of the Declarant.

4.11 “*Exterior Portion of the Unit*” or “*Exterior Portion*” means those portions of a Unit located beneath the exterior surface of the exterior walls of the applicable Building up to but not including the interior unfinished surface of the interior perimeter walls, including, without limitation, columns and supports.

4.12 “*Limited Areas*” means those portions of the Common Areas and facilities which are limited in their use and enjoyment to fewer than all the Owners, all as more particularly described in Paragraph 9 of this Declaration.

4.13 “*Mortgagee*” means the holder of a first mortgage lien on a Unit.

4.14 “*Owner*” means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who owns the fee simple title to a Unit and the condominium interest inherent therein.

4.15 “*Percentage Interest*” means the percentage of undivided interest in the title to the Common Areas and Limited Areas appertaining to each Unit as specifically expressed in this Declaration.

4.16 “*Percentage Vote*” means that percentage of the total vote accruing to all of the Units which is appurtenant to each particular Unit and accrues to the Owner of such Unit. 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 Unit.

4.17 “*Plans*” means the floor and building plans and survey of the Tract and elevations of the Building and Units on the Tract submitted with this Declaration, including the site plan and survey of the Tract and the Building, as may be subsequently amended. The floor and building plans are certified by Peterson Architecture. The survey was certified by Benchmark Land Services, Inc., a registered professional land surveyor for the State of Indiana, as true and correct on the 28th day of September, 2005.

4.18 “*Promise Road Business Park*” means the name by which the Property shall be known.

4.19 “*Property*” means the Tract, along with the Units, the Building, improvements, recreational facilities, appurtenances and property of every kind and nature whatsoever, real, personal and mixed, located upon the Tract and used in connection with the operation, use and enjoyment of Promise Road Business Park, but expressly does not include the personal property of the Owners or their tenants.

4.20 “*Real Estate*” means the real estate described in **Exhibit “A.”**

4.21 “*Tract*” means that portion of the Real Estate described in **Exhibit “B”** and depicted on **Exhibit “C”** and such other portions of the Real Estate which have, as of any given time, been subjected to the Act and this Declaration either by this Declaration or a supplemental declaration as herein provided.

4.22 “*Unit*” means an individual condominium unit in the Building. Each Unit shall be a separate freehold estate as provided in the Act consisting of the space within the boundaries of such Unit and being more particularly described and identified on the Plans and in other paragraphs of this Declaration, and each additional unit which may be submitted and subjected to the Act and this Declaration by supplemental declarations as herein provided. For purposes of the application of the Act to the Condominium, the term “Unit” as used in

this Declaration and all attending documents shall be deemed to be synonymous with the term "Condominium Unit." Wherever the term "Condominium Unit" is used in the Act, the name shall be deemed to apply to the term "Unit" as used in the documents of the Condominium.

5. *DESCRIPTION OF THE BUILDINGS.* There shall initially be two (2) Buildings on the Tract ("Building 1" and "Building 2"), each of which will be no more than one (1) story in height. Building 1 will contain no more than twenty-seven (27) Units, all as depicted and/or described on the Plans, and Building 2 will contain no more than twenty-four (24) Units, all as depicted and/or described on the Plans. Further details, terms and use conditions for the Buildings and Appurtenances, including, but not limited to, recreational areas, parking areas and other Limited and Common Areas are set forth in and further delineated on the Plans.

6. *IDENTIFICATION AND TITLE TRANSFER OF UNITS.* Each Unit is identified and located by Unit number on the Plans. The Plans set forth the Buildings as placed upon the Tract, the relation of the Buildings to the lot lines and the placement of all other improvements upon the Tract and in the Buildings. The Plans further establish the location or locations of the Units within each Building. Accordingly, the Unit numbers designating the Units within each Building are set forth on the Plans, and said Plans further designate the dimensions, layout and locations of the respective Units. A sufficient legal description of each Unit for all purposes shall consist of the identifying number of the Unit and the name of the Condominium and reference to the recording information. By way of example, Unit 100 in Building 1 may be formally described, conveyed and referred to as follows:

Unit Number 100 in Promise Road Business Park Condominiums ("Unit") according to the Declaration recorded as Instrument No. _____ and Plat recorded in Plat Cabinet No. _____, Page _____ as Instrument No. _____ on the ____ day of _____, 200__, in the Office of the Recorder of Hamilton County, Indiana.

The address of the Unit is commonly known as _____ Promise Creek Lane, Fishers, IN 46038.

7. *DESCRIPTION OF UNITS.*

7.1 *Appurtenances.* Each Unit shall consist of all space within the boundaries thereof and all portions of the Building situated within such boundaries, including, but not limited to and together with, all fixtures, facilities, utilities, equipment, appliances and structural components designed and intended solely and exclusively for the enjoyment, use and benefit of the Unit wherein the same are located, or to which they are attached, but excluding therefrom that designated, designed or intended for the use, benefit, support, safety or enjoyment of any other Unit or which may be necessary for the safety, support, maintenance, use and operation of any part of the Building or which are normally designed or designated for common use; provided, however, that all fixtures, equipment and appliances designated, designed or intended for the exclusive enjoyment, use and benefit of a Unit shall constitute a part of such Unit, whether or not the same are located within or partly within the boundaries

of such Unit, and all interior walls and all of the floors and ceilings within the boundaries of a Unit are considered part of the Unit.

7.2 Boundaries. The boundaries of each Unit shall be as shown on the Plans measured between the interior unfinished surface of the floors and ceilings, and up to but not including the applicable portion of the exterior surface of the exterior walls of the Building and up to the center line of any party wall separating the Unit from the adjacent 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 ceiling surface of the Unit because of inexactness or construction, settling after construction, or for any other reasons, the boundary lines of each 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 Unit in and to such space lying outside of the actual boundary lines of the Unit, but within the appropriate wall, floor or ceiling surfaces of the Unit.

7.3 Condominium Interest. Each Unit shall carry with it a Condominium Interest, and the Condominium Interest shall be inseparable from said Unit and shall pass with the fee interest to said Unit as an integral part of such Unit.

8. *COMMON AREAS AND FACILITIES.* Common Areas shall include, but are not limited to, the following:

- a. The Property (excluding the Units);
- b. The foundation, columns, girders, beams, supports and roof of any Building (excluding any portions located within the Exterior Portion of the Unit);
- c. The driveways, parking areas, yards, gardens, sidewalks and maintenance and storage facilities;
- d. All facilities providing central electricity, gas, water supply systems and sanitary sewer or septic systems and mains serving any Building, but exclusive of those portions of utility systems or facilities that are dedicated and conveyed to public utilities;
- e. Exterior lighting fixtures and electrical service lighting exteriors of any Building;
- f. Pipes, ducts, electrical wiring and conduits and public utilities lines (excluding utility lines and slabs designated as Limited Areas under Section 9.3 hereof and any utility lines located within the Exterior Portion of the Unit);
- g. Roofs, floors, ceilings and exterior surface of the exterior walls of the Buildings;
- h. All facilities and appurtenances located outside of the boundary lines of the Units, except those areas and facilities expressly defined as part of a Unit and except to the

extent the same are otherwise classified and defined as Limited Areas and Facilities;
and

- i. Any other portions of the Property necessary or convenient to its existence, maintenance and safety or normally in common use, except to the extent specifically included within the boundaries of the Units.

Each Owner of a Unit may use the Common Areas in accordance with the By-Laws, Rules and Regulations and for the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Unit Owners, subject always to the exclusive use of the Limited Areas as provided in this Declaration.

9. *LIMITED AREAS AND FACILITIES.* The costs of upkeep, maintenance, replacement and management of the Limited Areas and facilities, systems and equipment shall be charged to the Owners of the Unit or Units served by such Limited Areas and facilities, systems and equipment as Unit expenses in the manner provided in the Bylaws. Limited Areas and those Units to which use thereof is limited are as follows:

9.1 *Mechanical Equipment.* Air conditioning equipment, heating equipment, ventilation equipment, ducts, pipes, wires, bathroom plumbing facilities and fixtures, kitchen plumbing facilities and fixtures, and hot and cold water systems, including water heaters, shall be facilities reserved for the use of the Units respectively served by such equipment. The designation of the Limited Areas and Facilities and the Unit or Units they serve is set forth and depicted on the Plans or as further described and defined in this Declaration.

9.2 *Window, Window Frames, Door, Door Frames, Entrances, Walks and Steps.* Windows, window frames, door (including, without limitation, overhead doors), door frames, entrances, walks and steps upon or through which access to a Unit is obtained are limited to the use and enjoyment of the Unit or Units served by such improvements. The exterior sides and surfaces of doors, windows and frames surrounding the same shall be limited to the exclusive use of the Condominium Unit to which they appertain and the expense for maintaining or replacing same shall be borne by the Owner of the Unit.

9.3 *Utilities, Slabs and Improvements Serving Individual Units.* All utilities (and the slabs containing utility lines) lying within the exterior dimensions of the perimeter walls of any Unit and exclusively serving a particular Unit or Units within any Building shall be deemed to be Limited Areas, and shall be restricted to the use and enjoyment of the Unit or Units which they serve. Such utilities shall expressly be deemed to include, but shall not be limited to, all water, sewer, gas, electrical, TV, telephone and heating and air conditioning lines, ducts, improvements and facilities of every type or nature whatsoever. Except as may otherwise be expressly provided, such utilities and all portions thereof lying outside the exterior perimeters of any Unit shall be deemed to be and remain Common Areas. In addition to those facilities established as Limited Areas above, all heating and air conditioning facilities lying within or outside the exterior perimeters of any Unit and serving any particular Unit within any Building shall be deemed to be Limited Areas, and shall be restricted to the use and enjoyment of the Unit which they serve. Such heating and air conditioning facilities shall include all heating and air conditioning ducts, lines and

improvements lying within the exterior or interior perimeters of any Building, all air condensers located or lying outside any Unit and all lines, ducts or facilities connecting any such condenser with any of the said lines, ducts or improvements within the perimeters of any Building.

9.4 *Intentionally Omitted.*

9.5 *Limited Areas Depicted on Plans.* All other areas and facilities designated and shown on the Plans as Limited Areas shall be limited to the Unit or Units to which they pertain and serve as shown on the Plans.

10. *ENCROACHMENTS AND EASEMENTS FOR COMMON AREAS.* If by reason of the location, construction, settling or shifting of any Building, any Common Area or Limited Areas now or subsequently encroach upon any Unit, then in such event an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use and enjoyment of such Common Area or Limited Area. Notwithstanding any other provision in this Declaration to the contrary, each Owner shall have an easement in common with another Owner or Owners to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities of any kind or nature located in or running through any of the other Units and serving such Owner's Unit. Each Owner shall have the right of ingress and egress to and from such Owner's Unit, with such right being perpetual and appurtenant to the ownership of the Unit.

11. *ENCROACHMENT DUE TO EXTERNAL CAUSE.* In the event any Building, any Unit or any adjoining Common Area shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachment of parts of the Common Areas upon any Unit, or of any Unit upon any other Unit or upon any portion of the Common Areas, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance of such encroaching Common Area or Unit shall exist so long as any such Building shall stand.

12. *EASEMENTS.* The Board of Directors shall be authorized and empowered to give, convey, transfer, cancel, relocate and otherwise deal with utility and other easements located on or within the Common Areas and Limited Areas.

13. *OWNERSHIP OF COMMON AREAS AND PERCENTAGE INTEREST.* Each Owner shall have an undivided interest in the Common Areas as provided by the Act with all other Owners, equal to each Owner's Unit's Percentage Interest. The Percentage Interest of each Unit shall be a percentage equal to the square footage of the particular Unit divided by the total square footage of all Units which constitute a part of Promise Road Business Park. The square footage of each Unit and the initial Percentage Interest of each Owner in the Common Areas and the Limited Areas as calculated in accordance with this Section 13 and the Act are set forth on **Exhibit "E"** attached to this Declaration and incorporated herein by this reference (the "Percentage Interest Schedule").

14. *EXPANDABLE CONDOMINIUM AND CONTRACTABLE CONDOMINIUM.* Promise Road Business Park is and shall be an "expandable condominium" and "contractable condominium," as such terms are defined in the Act, and Declarant expressly reserves the right

and option to expand and/or contract the Property and Promise Road Business Park in accordance with the provisions of the Act and the following provisions:

14.1 The Tract is the real estate being subjected to Promise Road Business Park Condominiums by this Declaration and constitutes the first phase of the general plan of development of the Real Estate. The balance of the Real Estate depicted as the "Future Expansion Area" on **Exhibit "C"** attached hereto and incorporated herein by reference (the "Future Expansion Area") is the area into which expansion of Promise Road Business Park may be made by Declarant. The maximum number of Units which may be developed on the Real Estate, including Units on the Tract as defined in this original Declaration, shall be One Hundred Ten (110). Subject to said limit as to the maximum number of Condominium Units to be developed on the Real Estate, Promise Road Business Park may be expanded by Declarant to include additional portions of the Real Estate in one (1) or more additional phases by the execution and recording of one (1) or more amendments or supplements to this Declaration; provided, however, that no single exercise of such right and option of expansion as to any part or parts of the Real Estate shall preclude Declarant from thereafter from time to time further expanding Promise Road Business Park to include other portions of the Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Real Estate so long as such expansion is done on or before December 31, 2016. Such expansion is entirely at the discretion of Declarant and nothing contained in this original Declaration or otherwise shall require Declarant to expand Promise Road Business Park beyond the Tract or any other portions of the Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration by amendments or supplements to this Declaration as provided above. Any Condominium Units constructed in such expansion area shall be consistent with the quality of construction of the Condominium Units constructed in the previous phases. Prior to expansion to an additional phase, the improvements in such expansion phase shall be substantially complete.

14.2 Notwithstanding anything to the contrary contained in Section 14.1, the Declarant specifically reserves the right and option to contract Promise Road Business Park by withdrawing all or any portion of the Future Expansion Area from the terms of this Declaration and the Act at any time and at different times; provided, that no Building(s) have been developed within the portion of the Future Expansion Area to be withdrawn from the condominium regime. The Declarant's right and option to withdraw all or any portion of the Future Expansion Area from the terms and conditions of this Declaration and the Act shall expire ten (10) years from the date of recording of this Declaration. In the event Declarant exercises its option to withdraw all of any portion of the Future Expansion Area, Declarant shall, in each case, prepare, execute and record an amendment or supplement to this Declaration describing the fact of withdrawal and containing a legal description of the property being withdrawn from the terms and conditions of this Declaration and the Act.

14.3 The Percentage Interest which will appertain to each Unit in Promise Road Business Park as Promise Road Business Park may be expanded from time to time by Declarant in accordance with the terms hereof (including the Percentage Interest which appertains to each of the Units included in this original Declaration) shall be determined in accordance with the Percentage Interest formula set forth in Section 13 (including the Percentage Interest which

appertain to each of the Units included in this original Declaration and in the expanded Promise Road Business Park).

14.4 Simultaneously with the recording of amendments or supplements to this Declaration expanding Promise Road Business Park, Declarant shall record new Plans as required by the Act. Such amendments or supplements to this Declaration shall also include provisions reallocating Percentage Interests so that the Units depicted on such new Plans shall be allocated Percentage Interests in the Common Areas on the same basis as the Units depicted in the prior Plans. Such reallocation of Percentage Interests shall vest when the amendment or supplement to the Declaration incorporating those changes has been recorded.

14.5 When the amendment or supplement to the Declaration incorporating the addition of Units or expansion of Common Areas, or both, is recorded, all liens including, but not limited to, mortgage liens shall be released as to the Percentage Interests in the Common Areas described in the Declaration and shall attach to the reallocated Percentage Interests in the Common Areas as though the liens had attached to those Percentage Interests on the date of the recordation of the mortgage or other lien. The Percentage Interest appertaining to additional Condominium Units being added by the amendment or supplement to the Declaration are subject to mortgage liens upon the recordation of the amendment or supplement to the Declaration.

14.6 In furtherance of the foregoing, a power coupled with an interest is hereby granted to the Declarant, as attorney-in-fact, to shift the Percentage Interest in the Common Areas appurtenant to each Condominium Unit to the percentages set forth in each such amendment or supplement to this Declaration recorded pursuant to this paragraph 14. Each deed, mortgage or other instrument with respect to a Condominium Unit and the acceptance thereof shall be deemed a grant and acknowledgment of and consent to such power to said attorney-in-fact and shall be deemed to reserve to said attorney-in-fact the power to shift and reallocate from time to time the percentages of ownership in the Common Areas appurtenant to each Condominium Unit to the percentages set forth in each such recorded amendment or supplement to this Declaration.

14.7 Each Owner of a Condominium Unit by acceptance of a deed thereto, further acknowledges, consents and agrees, as to each such amendment or supplement to this Declaration that is recorded as follows:

14.7.1 The portion of the Real Estate described in each such amendment or supplement to this Declaration shall be governed in all respects by the provisions of this Declaration.

14.7.2 The Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall automatically be shifted and reallocated to the extent set forth in each such recorded amendment or supplement to this Declaration and upon the recording of each such amendment or supplement to this Declaration, shall thereby be deemed to be released and divested from such Owner and reconveyed and reallocated

among the other Owners as set forth in each such recorded amendment or supplement to this Declaration.

14.7.3 Each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed given subject to the conditional limitation that the Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall, upon the recording of each amendment or supplement to this Declaration be divested pro tanto to the reduced percentage set forth in such amendment or supplement to this Declaration and vested among the other Owners, mortgagees and others owning an interest in the other Condominium Units in accordance with the terms and percentages of each such recorded amendment or supplement to this Declaration.

14.7.4 A right of revocation is hereby reserved by the grantor in each such deed, mortgage or other instrument of a Condominium Unit to so amend and reallocate the Percentage Interest in the Common Areas appurtenant to each Condominium Unit.

14.7.5 The Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall include and be deemed to include any additional Common Areas included in land to which Promise Road Business Park is expanded by a recorded amendment or supplement to this Declaration and each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed to include such Additional Common Areas and the ownership of any such Condominium Unit and lien of any such mortgage shall automatically include and attach to such additional Common Areas as such amendments or supplements to this Declaration are recorded.

14.7.6 Each Owner shall have a perpetual easement, appurtenant to his Condominium Unit for the use of any such additional Common Areas described in any recorded amendment or supplement to this Declaration, for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the Owners (also known as Limited Areas) of specific Condominium Units as may be provided in any such amendment or supplement to this Declaration.

14.7.7 The recording of any such amendment or supplement to this Declaration shall not alter the amount of the lien for expenses assessed to or against a Condominium Unit prior to such recording.

14.7.8 Each Owner, by acceptance of the deed conveying his Condominium Unit, agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each amendment or supplement to this Declaration are and shall be deemed to be in accordance with the Act and for purposes of this Declaration and the Act, any changes in the respective Percentage Interest in the Common Areas as set forth in each such amendment or supplement to this Declaration shall be deemed to be made by agreement of all Owners.

14.7.9 Each Owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this paragraph 14 to comply with the Act as it may be amended from time to time.

15. *UNIT VOTING RIGHTS.* Except as otherwise provided or permitted in Sections 14 and 21 or elsewhere herein, the Percentage Interest appertaining to each separate Unit in the Common Areas (as set forth in the Percentage Interest Schedule) shall be permanent and shall not be altered or changed without the unanimous written consent of all the Owners (including Declarant, so long as Declarant owns any Unit) and Mortgagees, and then only if in compliance with all requirements of the Act. The Percentage Interest appertaining to each Unit shall also be the Percentage Vote allocable to the Owner thereof in all matters with respect to Promise Road Business Park. The Bylaws further set forth the voting rights and procedure. Each Owner shall be permitted to designate a written proxy to vote on all matters.

16. *REAL ESTATE TAXES.* Real estate taxes are to be separately assessed and taxed to each Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Unit, but are assessed and taxed on the Property (or the Property and any other portions of the Real Estate) as a whole, then each Owner shall pay his proportionate share of such taxes to the extent attributable to the Property in accordance with his respective Percentage Interest.

17. *UTILITIES.* Each Owner shall pay for the Owner's own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expenses, unless otherwise agreed by a majority of the Percentage Vote of the Co-Owners. The sanitary sewer services are not separately metered and the provider of sanitary sewer services shall provide to the Declarant or the Association one combined monthly bill for service for the Property. Without the prior written consent of the sanitary sewer utility providing sanitary sewer service to the Units or the Property, neither the Declarant nor the Association or its Members shall amend or modify the rights of the sanitary sewer utility related to the billing or payment of sanitary sewer service for the Units or the Property.

18. *EASEMENT FOR UTILITIES AND PUBLIC AND QUASI-PUBLIC VEHICLES.* All public and quasi-public vehicles, including but not limited to police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery and maintenance vehicles, shall have the right to enter upon the streets, Common Areas and Limited Areas in the performance of their duties and services. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining of such utilities, including, but not limited to, water, sewer, gas, telephones, cable television and communications, and electricity on the Property; provided, however, nothing in this Declaration shall permit the installation of sewers, electric lines, water lines, telephone lines, cable television lines or other utilities, except as contemplated by the Plans or as otherwise provided in this Declaration, or as subsequently may be approved by the Board of Directors. By virtue of this easement, the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the property and to affix and maintain electric and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Building.

19. *OWNERS ASSOCIATION.*

19.1 Subject to any rights of Declarant reserved in the Declaration or Bylaws, the maintenance, repair, upkeep, replacement, administration, management and operation of the Property shall be performed by the Association. Each Owner of a Unit shall, automatically upon becoming an Owner of a Unit, be and become a member of the Association, and shall remain a member until such time as his ownership ceases, but membership shall terminate when such person ceases to be an Owner, and will automatically be transferred to the new Owner.

19.2 The Association shall elect a Board of Directors annually (except for the Initial Board of Directors described in the Bylaws) in accordance with and as prescribed by the Bylaws. Each Owner shall be entitled to cast his Percentage Vote for the election of the Board of Directors, except for such Initial Board of Directors who shall serve for the period provided in the Bylaws. Each person serving on the Initial Board of Directors, whether as an original member or as a member appointed by Declarant to fill a vacancy, shall be deemed a member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board of Directors shall be deemed or considered a member of the Association or an Owner of a Unit for any other purpose (unless such person is actually an Owner of a Unit and, therefore, a member of the Association). The Board of Directors shall be the governing body of the Association, representing all of the Owners in providing for the management, administration, operation, maintenance, repair, replacement and upkeep of the Property, exclusive of the Units.

20. *MAINTENANCE, REPAIRS AND REPLACEMENTS.*

20.1 *Responsibility for Expenses.* Each Owner shall, at the Owner's expense, be responsible for the maintenance, repairs, decoration and replacement within his own Unit (excluding the Exterior Portion of the Unit), except as may otherwise be provided in the Bylaws. Each Owner shall promptly repair any defect occurring in his Unit (excluding the Exterior Portion of the Unit) which, if not repaired, might adversely affect the Building, any Unit or any Common Area or Limited Area. Maintenance, repairs, replacements and upkeep of the Common Areas, Limited Areas and the Exterior Portion of each Unit shall be controlled and furnished by the Association and shall be chargeable by the Association to all Units, or to fewer than all Units for Limited Areas serving those Units, as the Declaration, Bylaws and Rules and Regulations of the Condominium shall provide. The Board of Directors shall adopt such rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate, and may amend and modify the same from time to time as it deems advisable, necessary or appropriate. The Association shall have the duty of determining, by estimate or otherwise, and collecting the amount of Common Expenses necessary to maintain, repair or replace equipment and facilities, and administer all improvements constituting a part of the Common Areas. The duties of the Association shall be more fully set out in the Bylaws, consistent with the following general statement of the obligations of the Association:

20.2 Annually, on or before the date of the regular annual meeting of the Association, the Association shall notify the Owner of each Unit of the amount of the estimated annual assessment, and shall collect the applicable Percentage Interest of the assessment amount from each Owner on not less than a monthly basis. The estimated Common Expenses shall be computed on a calendar year basis.

20.3 The Association shall maintain and establish a reserve fund for deferred maintenance, repairs, replacements, administration costs, payment of a manager, other employees and agents, payment of insurance premiums and other matters deemed appropriate. Common Expenses shall be deemed to include, but shall not be limited to, the insurance premium for all insurable improvements, administration and management expenses, the cost of maintenance of the recreation areas and other facilities and equipment used in connection with the Common Areas. It shall also include all other maintenance, repair and upkeep of the Common Areas and the Exterior Portion of each Unit. All Owners shall be responsible and liable for a pro-rata share of the Common Expenses as provided for in this Declaration and the Bylaws.

20.4 It is expressly provided that the expense of maintenance, repair and upkeep of the Limited Areas and Facilities shall be borne exclusively by the Owners of the Units entitled to the use and enjoyment of such Limited Areas. Except as otherwise provided in the Declaration, Bylaws and Rules and Regulations of the Association, it shall be the duty of the Association to provide all such maintenance, repair and upkeep of the Limited Areas and Facilities. The Association shall have the further responsibility of collecting the expenses of the same incurred with respect to any such Limited Areas and Facilities from the Unit Owner or Owners entitled to the exclusive use and enjoyment of such Limited Areas and Facilities. The Association may establish uniform reserves for this purpose. It shall be understood, however, that any damage caused by an Owner, tenant of an Owner or guest or invitee of an Owner through said party's negligence, wear or tear, or by his willful acts, shall be the responsibility of the Owner, and a lien against the Unit of such Owner, as subsequently provided, shall exist with respect to any such damage.

20.5 The Board of Directors shall have the sole and exclusive power, authority and obligation to determine all matters affecting assessments, except as may otherwise be provided for in this Declaration and the Bylaws. Such power, authority, and obligation shall expressly include, but shall not be limited to, the allocation of all assessments between Units and Unit Owners, the determination of whether property making up any portion of the Condominium constitutes Common Areas, Limited Areas or the Exterior Portion of any Unit as provided for in the Declaration and Bylaws, and the determination of whether expenditures with respect to any such property or affecting the same is assessable against all or fewer than all the Owners. Such determinations by the Board shall be binding upon all parties and all Owners unless it shall be shown that said determinations were made in bad faith with an intent to prefer certain Units or Owners over others, or were made in contravention of the express terms and conditions of the Declaration and the Bylaws.

21. *ALTERATIONS, ADDITIONS AND IMPROVEMENTS.* Except as may be otherwise provided in the Declaration or Bylaws, no Owner shall make any alterations or additions to any Common Areas, Limited Areas or all or any part of the Exterior Portion of the applicable Unit

without the prior written approval of the Board of Directors, nor shall any Owner make any alterations to the Owner's respective Unit and within the boundaries of the Owner's Unit which would affect the safety or structural integrity of the Building. Declarant reserves the right to change the interior design and arrangement of all Units and alter the boundaries between Units (including, without limitation, the combination of one or more Unit(s) or the subdivision of a Unit into one or more Units) so long as Declarant owns the Unit so changed or altered. Furthermore, each Owner shall have the right to change the interior design and arrangement of said Owner's Unit(s) (including, without limitation, the combination of one or more Unit(s) or the subdivision of a Unit into one or more Units) so long as (i) such Owner owns the Unit(s) so changed or altered and (ii) such change or alteration shall in no event reduce the dimensions of any Unit below 15 feet in width and 70 feet in length (as measured from the center line of any party wall separating a Unit from an adjacent Unit to the exterior surface of the exterior wall of the Building in accordance with Section 7.2 hereof) for Units located in Building 1 and 15 feet in width and 60 feet in length (as measured from the center line of any party wall separating a Unit from an adjacent Unit to the exterior surface of the exterior wall of the Building in accordance with Section 7.2 hereof) for Units located in Building 2. Notwithstanding the foregoing, no change or alteration of any Unit(s) by any Owner or Declarant shall increase the number of Units beyond the total number of Units set forth in Section 5 for Buildings 1 and 2 and in Section 14 in the aggregate. If Declarant or any Owner shall make any changes or alterations, such changes shall be reflected by a supplement to the Plans or amendment to the Plans executed by the Declarant (or by the Association, if after the Applicable Date) and recorded in the Office of the Recorder of Hamilton County, Indiana, if necessary. Simultaneously with the recording of any such amendment or supplement to the Plans, Declarant (or the Association, if after the Applicable Date) shall record an amendment or supplement to this Declaration allocating Percentage Interests so that the Units depicted on such new Plans shall be allocated Percentage Interests in the Common Areas on the same basis as the Units depicted in the prior Plans. Such allocation of Percentage Interests shall vest when the amendment or supplement to this Declaration incorporating such changes has been recorded. Such supplements or amendments to the Plans and this Declaration need not be approved by the Association or any other Owners.

22. *INSURANCE.* The Co-Owners, through 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. The insurance coverage also shall provide a specific environmental coverage endorsement for the improper introduction of unapproved enzymes, bacterial agents, chemicals, or similar substances and for violations of discharge limitations to the sanitary sewer system, and with sanitary sewer utility named as additional insured on the Association's policy. The sanitary sewer utility shall be provided Certificates of Insurance evidencing Association's compliance with this requirement, and each Certificate of Insurance shall provide that the insurer must give the sanitary sewer utility at least 30 days' prior written notice of cancellation and termination of the Association's coverage thereunder. If the Board of Directors can obtain such coverage for reasonable amounts, they shall also obtain "all risk" coverage. The Board of Directors 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 type of insurance required above. If deemed advisable by the Board of Directors, the Board of Directors 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 Mortgagee of each Owner upon the following terms and conditions:

22.1 All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association shall be paid to the Association or to the Board of Directors, who shall act as the insurance trustees and hold such proceeds for the benefit of the insured parties;

22.2 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 in this Declaration, and for the benefit of the Owners and their respective Mortgagees;

22.3 The proceeds shall be used or disbursed by the Association or Board of Directors, as appropriate, only in accordance with the provisions of this Declaration. 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 an 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 of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors 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 permitted in this Declaration, and (ii) that notwithstanding any provision in this Declaration 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 Paragraph 23 of this Declaration;

22.4 The Co-Owners, through the Association, shall also purchase a master comprehensive public liability insurance policy in such an amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, the Board of Directors, any committee or organization of the Association or Board of Directors, 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 all Owners of Units and all other persons entitled to occupy any Unit or other portions of the Co-Owners, through the Association, shall also obtain any other insurance required by law to be maintained, including, but not limited to, workers' compensation insurance, and such other insurance as the Board of Directors 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 of Directors and any managing agent acting on behalf of the Association;

22.5 Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Board of Directors;

22.6 The premiums for all such insurance described above shall be paid by the Association as part of the Common Expenses;

22.7 When any such policy of insurance described above has been obtained by or on behalf of the Association, written notice of the obtainment of such policy, and of any subsequent changes or termination of such policy, shall be promptly furnished to each Owner or Mortgagee whose interest may be affected, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association;

22.8 In no event shall any distribution of proceeds be made by the Board of Directors 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 the Owner's Mortgagee jointly;

22.9 Each Owner shall be solely responsible for and may obtain such additional insurance as the Owner deems necessary or desirable at the Owner's own expense affording coverage upon the personal property, the contents of the Owner's Unit (including but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by the Owner) and the Owner's personal property stored elsewhere on the property, and for the Owner's personal liability, 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;

22.10 Each Owner may obtain casualty insurance at the Owner's own expense upon the Owner's Unit, but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association; and

22.11 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 paragraph due to pro-ration of insurance purchased by an Owner under this paragraph, 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 provided in this Declaration.

23. CASUALTY AND RESTORATION.

23.1 Except as subsequently provided, damage to or destruction of the 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 the Building (as that phrase is defined below), and shall only be done in accordance with the provisions of this Paragraph 23. As used in this Paragraph 23, the term "complete destruction of the Building" means a determination, made by a two-thirds (2/3) Percentage Vote of all Co-Owners at a special meeting of the Association called for the purpose of making such determination, that total destruction of the Building has occurred. A special meeting of the Association shall be called and held within ninety (90) days after any

fire or any other casualty or disaster damaging or destroying the Building for the purpose of making the determination of whether or not there has been a complete destruction of the Building. If such a special meeting is not called and held within such ninety (90) day period, or if the determination of whether or not there has been a complete destruction of the Building has not been made within such ninety (90) day period, then it shall be conclusively presumed that the Co-Owners determined that there was not a complete destruction of the Building, and the Association shall proceed with repair and reconstruction as provided in this Paragraph 23.

23.2 If the insurance proceeds 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 no insurance proceeds, and if the Property is not removed from the Condominium regime, the cost for restoring the damage and repairing and reconstructing the Building (or the costs in excess of insurance proceeds received, if any) shall be paid by all of the Owners of Units in proportion to the ratio that the Percentage Interest of each Unit bears to the total Percentage Interest of all 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.

23.3 For purposes of Paragraphs 23.1 and 23.2 above, repair, reconstruction and restoration shall mean construction or rebuilding of the 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.

23.4 If, under Paragraph 23.1 above, it is determined by the Co-Owners at the special meeting of the Association that there has been a complete destruction of the Building, the Co-Owners shall, at the same special meeting, vote to determine whether or not such complete destruction of the Building shall be repaired and reconstructed. The Building 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 the Building unless by a two-thirds (2/3) Percentage Vote of all Co-Owners a decision is made to rebuild, reconstruct and repair the Building. If two-thirds (2/3) of all of the Co-Owners (by Percentage Vote) decide that the Building is 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 provided in Paragraphs 23.1 and 23.2.

23.5 If, in any case of the complete destruction of the Building, less than two-thirds (2/3) of all of the Co-Owners (by Percentage Vote) decide in favor of the rebuilding, reconstruction and repair of the Building, the Building 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 and in accordance with the Act:

23.5.1 The Property shall be deemed to be owned in common by the Unit Owners;

- 23.5.2 The undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;
- 23.5.3 Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Unit Owner in the Property; and
- 23.5.4 The Property shall be subject to an action for partition at the suit of any 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 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 Unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Unit Owner.

23.6 Immediately after a fire or other casualty causing damage to any property for which the Board of Directors or the Association has the responsibility of maintenance and repair, the Board of Directors 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 of Directors desire.

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

23.7.1 If the amount of the estimated cost of reconstruction and repair is less than Fifty Thousand Dollars (\$50,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; 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 provided in the following Paragraph 23.7.2.

23.7.2 If the estimated cost of reconstruction and repair of the Building or other improvements is more than Fifty Thousand Dollars (\$50,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, sub-contractors, materialmen, the architect or other persons who have rendered services or furnished materials in connection with the work: (i) 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; (ii) that there, is no other outstanding indebtedness known to the

said architect for the services and materials described; and (iii) that the costs as estimated by said architect for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of construction fund remaining after payment of the sum so requested.

23.7.3 Encroachments upon or in favor of 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 Building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Building stands.

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

24. *COVENANTS AND RESTRICTIONS.* The covenants and restrictions applicable to the use and enjoyment of the Units are set forth in the Bylaws, including the limitation that each of the Units shall be limited to office, warehouse, industrial and related commercial uses. These covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the Real Estate and inure to the benefit of and be enforceable by any Owner, the Co-Owners or by the Association. Present or future Owners shall be members of the Association and shall be entitled to injunctive relief against any violation of these provisions and shall be entitled to damages for any injuries resulting from any violations of the Bylaws, but there shall be no right of reversion or forfeiture of title resulting from such violation.

Notwithstanding anything to the contrary contained herein or in the By-Laws, including, but not limited to any covenants and restrictions set forth in the By-Laws, Declarant shall have the right to use and maintain any Condominium Units owned by Declarant and such other portions of the Property and any portions of the Real Estate not then part of the Property, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction and sale of Condominium Units, or to promote or effect sales of Condominium Units or for the conducting of any business or activity attendant thereto, including, but not limited to model Condominium Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. 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 at any time.

Notwithstanding anything to the contrary contained herein or in the By-laws, including, but not limited to any covenants and restrictions set forth in the By-Laws, the following sanitary

sewer requirements and restrictions shall apply to the Units and the Property and shall run with the Real Estate and inure to the benefit of and be enforceable by any Owner, the Co-Owners, the Association or by the sanitary sewer utility provider:

24.1 *Tenant Finish Permit.* At the time the Declarant or an Owner applies for a Tenant Finish Permit for a Unit from the Town of Fishers, indicating the specific use of each Unit, the Declarant or the Owner shall deliver to the sanitary sewer utility (currently Hamilton-Southeastern Utilities, Inc.) a copy of the permit application and the issued Tenant Finish Permit.

24.2 *Access.* The sanitary sewer utility or its agents shall have the right of access to Units to inspect any sanitary sewer laterals, service lines or facilities including any clean-out or sampling facilities required to be installed in a Unit. Inspection may consist of, but shall not be limited to, flow monitoring, dye testing, televising, smoke and all other testing methods as determined by the sanitary sewer utility's engineer. Except in cases of emergency, access by the sanitary sewer utility to a Unit(s) shall be provided upon three (3) working days notice to the Owner or the Association. In cases of emergency which includes, but is not limited to, the utility's good faith suspicion of improper use or discharges to the utility's sanitary sewer system, the sanitary sewer utility shall have immediate access to the Condominium Unit(s) via a "knox box" system installed by Declarant and maintained by Association with master key accessibility by the sanitary sewer utility.

24.3 *Pre-treatment Facilities and Equipment.* To the extent required by the sanitary sewer utility, Declarant may have installed in the Units, and if not, the Association shall require the Owner of a Unit to install at the Owner's expense, grease traps, grit traps, oil/water separators, clean-outs, access points, wastewater pre-treatment devices and any other similar devices designed to prevent the discharge of prohibited substances to the utility's sewer system and to allow utility an access point for testing and system shut-off. Once installed, the above devices shall be maintained in accordance with the utility's guidelines or as determined by the utility's engineer. All costs for maintenance of the above devices shall be at the Association's expense. For so long as the Property remains connected to the utility's sanitary sewer system, and during normal working hours, the utility may from time to time inspect the above devices to insure the devices are properly maintained and to insure the Condominium Unit Owners are properly utilizing the sanitary sewer system. In cases of emergency as determined by the sanitary sewer utility, the utility or utility's agents shall have immediate access to the sanitary sewer devices; and if emergency access to Condominium Units is required after hours, the utility shall have the right of access to Condominium Units via a knox box installed by Declarant and to be maintained by the Association. In order to prevent the use of chemical substances that may reduce the effectiveness of the above devices, the Owners shall be prohibited from discharging or introducing to the sanitary sewer facilities or devices any enzymes, bacterial agents, chemical, or similar substances, including without limitation, regulated substances or Hazardous Material (as defined in the By-Laws), unless said substances are specifically and previously approved in writing by the utility or utility's engineer.

24.4 *Reporting.* Each Owner and the Association shall notify the sanitary sewer utility in writing, within ten (10) days of the filing or reporting thereof, of all (i) Material Safety Data Sheets, or (ii) Form 313R, Tier One, and Tier Two documentation required by Title III of the Superfund Amendments and Reauthorization Act of 1986, filed with the Environmental

Protection Agency or the Indiana Department of Environmental Management relative to any Unit or the Property.

24.5 *Architectural/Plumbing Plans.* Association and each Owner shall provide to the sanitary sewer utility architectural and plumbing plans for each Condominium Unit to enable utility to determine the appropriate amount of sanitary sewer system capacity to be allocated to each Condominium Unit.

24.6 *Insurance.* Association shall, or shall require Owners to, maintain in full force and effect, at its own expense, policies of insurance for operations of the Units that are adequate, customary and appropriate for respective businesses of a like kind, including comprehensive general liability and property liability insurance with specific environmental coverage for the improper introduction of unapproved enzymes, bacterial agents, chemicals, or similar substances and for violation of discharge limitations to the sanitary sewer utility. Utility shall be named as additional insured on the Association's and/or the Owner's policy or policies. Upon request, Association or each Unit Owner shall provide certificates of insurance evidencing its compliance with this Section.

24.7 *Clear Water Sources.* No clear water sources, including but not limited to foundation drains, sump pumps and road drains shall be permitted to the discharge into the sanitary sewers.

25. *AMENDMENT OF DECLARATION.* Except as otherwise provided in this Declaration, amendments to the Declaration shall be proposed and adopted in the following manner:

25.1 *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.

25.2 *Resolution.* A resolution to adopt a proposed amendment may be proposed by the Board of Directors or by Owner(s) having a majority of the Percentage Vote.

25.3 *Meeting.* 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 Bylaws.

25.4 *Adoption.* Subject to the provisions of the Bylaws and the rights of Declarant described therein, any proposed amendment to this Declaration must be approved by a vote of not less than sixty-seven percent (67%) in the aggregate of the Percentage Vote. In the event any Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the Bylaws.

25.5 *Intentionally Omitted.*

25.6 *Intentionally Omitted.*

25.7 *Special Amendments.* Except as otherwise provided for herein, no amendment to this Declaration shall be adopted which changes (i) the Percentage Interest with respect to any Unit or the applicable share of any Owner's liability for Common Expenses or rights in any Limited Areas, except for changes pursuant to Paragraph 14 herein, without the approval of one hundred percent (100%) of the Co-Owners and all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Bylaws, (ii) the provisions of Paragraph 23 of this Declaration with respect to reconstruction or repair in the event of fire or any other casualty or disaster, without the approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Bylaws, or (iii) the rights of the sanitary sewer utility provided in these Declarations including, without limitation, the provisions or restrictions related to the use or prohibited uses, maintenance, right to access and inspect the sanitary sewer facilities and related devices, or related to the payment for sanitary sewer service, without the prior written consent of the sanitary sewer utility providing sanitary sewer service to the Units or the Property.

25.8 *Recording.* Each amendment to the Declaration shall be executed by the President and Secretary of the Association and recorded in the Office of the Recorder of Hamilton County, Indiana, and such amendment shall not become effective until so recorded.

25.9 *Amendments by Declarant Only.* Notwithstanding the foregoing or anything to the contrary contained herein, the Declarant shall have the right acting alone and without the consent or approval of the Co-Owners, the Association, the Board of Directors, any Mortgagee or any other person or entities at any time prior to the Applicable Date (as defined in the Bylaws) to prepare, execute and record a special amendment ("Special Amendment") to this Declaration which amends this Declaration (i) to comply with federal regulatory requirements for lending institutions in order to induce such lending institutions to make, purchase, sell, insure or guarantee first mortgages secured by an interest in a Unit; (ii) to bring this Declaration into compliance with the Act; (iii) to implement expansion or contraction of the Property and Promise Road Business Park pursuant to Declarant's reserved rights to expand or contract the same as set forth in Paragraph 14 hereof; (iv) to implement the reconfiguring, subdivision or combining of Units owned by Declarant as set forth in Paragraph 21 hereof; or (v) to correct clerical or typographical errors in this Declaration or in any Exhibit hereto or any supplement or Amendment thereto. In furtherance of all rights and powers in this subparagraph, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed or other evidence of obligation, or other instrument affecting a Unit and the acceptance of such instrument shall be deemed to be a grant and acknowledgment of, and a consent to reservation of, the power of the Declarant to vote in favor of, make, execute and record Special Amendments.

26. ACCEPTANCE AND RATIFICATION; MISCELLANEOUS

26.1 All present and future Owners, Mortgagees, tenants and occupants of the Units shall be subject to and shall comply with the provisions of the Declaration, the Act, the Bylaws and the Rules and Regulations as adopted by the Board of Directors as each may be amended or

supplemented from time to time. The acceptance of a contract to purchase, deed of conveyance or act of occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Act, the Bylaws and Rules and Regulations and as each may be amended or supplemented from time to time are accepted and ratified by such purchaser, Owner, tenant, or occupant and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease. All persons, corporations, partnerships, trusts, associations or other legal entities who may occupy, use, enjoy or control a Unit or Units or any part of the Property in any manner shall be subject to the applicable Declaration, the Act, the Bylaws and the Rules and Regulations as each may be amended or supplemented from time to time.

26.2 *Costs and Attorneys Fees.* In any proceeding arising because of failure of an Owner to make any payments, take any action or refrain from taking any action required by this Declaration, the Bylaws or the Rules and Regulations adopted pursuant to the Bylaws, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

26.3 *Waiver.* No Owner may become exempt from liability for such Owner's contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Areas or by abandonment of the Owner's Unit.

26.4. *Severability Clause.* The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration or the Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration or the Bylaws.

26.5 *Pronouns.* Any reference to the masculine, feminine or neuter gender shall, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine and neuter genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

26.6 *Floor Plans.* The Plans, which set forth the layout, location, identification numbers and dimensions of the Units and the Property, are incorporated into this Declaration by reference, and have been filed in the Office of the Recorder of Hamilton County, Indiana, in _____, as of the 5 day of JANUARY, 2007, as Instrument Number 2007001178.

27. *NEGLIGENCE.* Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the Owner's negligence or by that of any member of the Owner's family or guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by the Owner's use, misuse, occupancy or abandonment, of his Condominium Unit or its appurtenances or of the Common Areas or Limited Areas.

28. *DECLARANT'S RESERVED RIGHTS.*

28.1 Declarant shall have, and hereby reserves, the right and an easement over, across, upon, along, in, through and under the Tract, for the purposes of installing, maintaining, repairing, replacing, relocating and otherwise servicing utility equipment, facilities and installations to serve the Property and any portions of the Real Estate which are not part of the Property, to provide access to and ingress and egress to and from the Property and any such portions of the Real Estate which are not part of the Property for any purposes (including, without limitation, construction, signage and marketing purposes), to make improvements to and within the Property and any such portions of the Real Estate which are not part of the Property, and to provide for the rendering of public and quasi-public services to the Property and such portions of the Real Estate which are not part of the Property.

28.2 Declarant reserves the right to use any of the Real Estate that is not annexed to or made subject to the Declaration for any purposes (including, without limitation, construction, signage and marketing purposes).

28.3 Declarant shall have, and hereby reserves, the right to grant an easement over, across, upon, along, in, through and under any portions of the Common Areas and/or any portions of the Real Estate which are not part of the Property so long as the owners of the benefited real estate are obligated to pay their proportionate share of the cost and expense to maintain, repair and operate such portions of the Common Areas.

IN WITNESS WHEREOF, the undersigned Declarant has caused this Declaration to be executed the day and year first above written.

"DECLARANT"

PROMISE ROAD BUSINESS PARK, LLC

By: *Patrick R. Verble*
Patrick R. Verble, Sole Member

STATE OF INDIANA

COUNTY OF *Hamilton*

Before me, a Notary Public in and for said County and State personally appeared Patrick R. Verble, the Sole Member of Promise Road Business Park, LLC, who acknowledged execution of the foregoing Declaration of Easements, Restrictions and Covenants for Promise Road Business Park, for and on behalf of such limited liability company, and who, having been duly sworn stated that the representations therein contained are true.

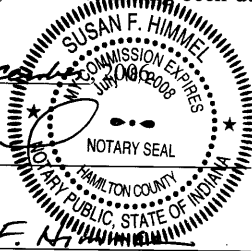
WITNESS my hand and Notarial Seal this 15 day of December

Resident of *Hamilton* County

My Commission Expires: 7-18-08

Susan F. Himmel
Notary Public

Susan F. Himmel
Printed Name



This document prepared by Wataru Matsuyasu, Baker & Daniels, LLP, 600 East 96th Street, Suite 600, Indianapolis, Indiana 46240.

"I affirm, under the penalties for perjury, that I have taken reasonable care to reflect each Social Security number in this document, unless required by law."

(name) *Kyo Aki*

Exhibit "A"

**To Declaration of Easements, Restrictions and Covenants for
Promise Road Business Park**

EXHIBIT A

Legal Description of Real Estate

A part of the Northwest Quarter of Section 33, Township 18 North, Range 5 East in Hamilton County, Indiana more particularly described as follows:

Commencing at the northwest corner of said Northwest Quarter; thence North 89 degrees 39 minutes 00 seconds East (basis of bearings per Instrument Number 2004-22040 on file in the Office of the Recorder of Hamilton County, Indiana) along the North line of said Northwest Quarter 850.10 feet to the Point of Beginning; thence South 00 degrees 00 minutes 00 seconds East 584.66 feet to the Northerly right-of-way line for Interstate Highway No. 69 per Deed Book 216, pages 144 through 148 on file in said Office, being a point on a non-tangent curve to the right, having a radius of 3053.10 feet, the radius point of which bears North 20 degrees 43 minutes 30 seconds West; the following two (2) courses are along said Northerly line; (1) thence southwesterly along said curve 685.17 feet to a point which bears South 07 degrees 52 minutes 00 seconds East from said radius point; (2) thence South 82 degrees 08 minutes 00 seconds West 189.35 feet to the west line of said Northwest Quarter; thence North 00 degrees 00 minutes 10 seconds East along said West line 714.21 feet to a line that is 60.00 feet south of and parallel with said north line of the Northwest Quarter; thence North 89 degrees 39 minutes 00 seconds East along said parallel line 481.00 feet to the point of curvature of a curve to the left with a radius of 1205.92 feet, the radius point of which bears North 00 degrees 38 minutes 44 seconds West; thence easterly along said curve 375.83 feet to the Point of Beginning. Containing 12.63 acres, more or less.

Exhibit "B"

**To Declaration of Easements, Restrictions and Covenants for
Promise Road Business Park**

Exhibit "D"
To Declaration of Easements, Restrictions and Covenants for
Promise Road Business Park

BYLAWS
OF
PROMISE ROAD BUSINESS PARK
AND OF
PROMISE ROAD BUSINESS PARK
OWNER'S ASSOCIATION, INC.

ARTICLE I
IDENTIFICATION AND APPLICABILITY

Section 1.01. Identification and Adoption. These Bylaws are adopted simultaneously with the execution of a certain Declaration of Easements, Restrictions and Covenants for Promise Road Business Park (the "Declaration") creating Promise Road Business Park, to which these Bylaws are attached and made a part. The Declaration is incorporated by this reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these Bylaws. The provisions of these Bylaws shall apply to the Property and the administration and conduct of the affairs of the Condominiums and the Association.

Section 1.02. Incorporation of Defined Terms from Declaration. The capitalized terms used herein and not elsewhere defined shall have the same meanings ascribed to them in the Declaration.

Section 1.03. Individual Application. All of the Owners, future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a Unit or any part of the Property shall be subject to the restrictions, terms and conditions set forth in the Declaration, these Bylaws, the Act and to any rules and regulations adopted by the Board of Directors.

ARTICLE II
MEETINGS OF ASSOCIATION

Section 2.01. Purpose of Meetings. At least annually, and at such other times as may be necessary, the meetings of the Association shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses and for such other purposes as may be required by the Declaration, these Bylaws or the Act.

Section 2.02. Annual Meetings. The first annual meeting of the Association shall not be required until Declarant has conveyed a Unit to any Owner, and such meeting may be held within ninety (90) days following the recording of the Declaration and conveyance of a Unit; provided, however, that in no event shall the first annual meeting be held later than (a) four (4) months after eighty percent (80%) of the Units have been conveyed to Owners or (b) five (5) years from the date of recording of the Declaration, whichever is earlier, and provided further that Declarant may, at any time after recording, call for the first annual meeting of the Association, and pursuant to such meeting, the Association shall assume the duties and responsibilities ascribed to it by the Declaration and these Bylaws. The date the Association assumes such duties shall be referred to as the "Applicable Date." Subsequent regular annual meetings of the Association shall be held as the Board of Directors may decide at the first meeting of the Board following the first annual meeting of the Association.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of Owners who have not less than a majority of the Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the Association shall be held at any suitable place in Marion County, Indiana, or Hamilton County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each member entitled to vote not less than seven (7) days prior to the date of such meeting. The notice shall be mailed or delivered to the Owners at the addresses of their respective Units and to one other address that each Owner may supply on a signed address card filed with the Secretary of the Board. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) who requests in writing that such notices be delivered to it and (b) who has furnished the Association with its name and address in accordance with Section 9.01 of these Bylaws. Attendance at any meeting in person, by agent or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) *Number of Votes.* Each Owner shall be entitled to the number of votes equal to the total of the percentage of ownership in the Common Areas and Limited Areas applicable to the Owner's Unit's Percentage Interest as stated in the Percentage Interest Schedule referenced in Paragraph 13 of the Declaration.

(b) *Multiple Owner.* Where the Owner of a Unit constitutes or consists of more than one person, or is a partnership, there shall be only one voting representative entitled to all of the Percentage Vote allocable to that Unit. At the time of acquisition of title to a Unit by more than one person or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable

proxy appointing one of such persons or partners as the voting representative for such Unit, which shall remain in effect until all of such parties constituting such multiple Owner or the partners in such partnership designate another voting representative in writing, or such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction, or the Owner no longer owns such Unit. Such appointed voting representative may grant a proxy to another to vote in his or her place at a particular meeting or meetings pursuant to paragraph (d) of this Section, which shall not constitute a permanent relinquishment of the right to act as voting representative of the Unit.

(c) *Voting by Corporation or Trust.* Where a corporation or trust is an Owner, or is otherwise entitled to vote, the trustee may cast the vote on behalf of the trust and the agent or other representative of the corporation duly empowered by the Board of Directors of such corporation may cast the vote to which the corporation is entitled. The secretary of the corporation or a trustee of the trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust.

(d) *Proxy.* An Owner may vote either in person or by a duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate the Owner's attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting.

(e) *Quorum.* Except where otherwise expressly provided in the Declaration, these By-Laws or the Act, the Owners representing a majority of the Percentage Vote shall constitute a quorum at all meetings. The term majority of Owners or majority of the Percentage Vote, as used in these Bylaws, shall mean the Owners entitled to at least fifty-one percent (51%) of the Percentage Vote in accordance with the applicable Percentage Interests set forth in the Declaration, as such may be amended from time to time.

(f) *Conduct of Annual Meeting.* The President of the Board of Directors shall act as Chairman of all annual meetings of the Association if the President is present. At all annual meetings, the Chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:

- (i) *Reading of Minutes.* The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a majority of the Percentage Vote.
- (ii) *Treasurer's Report.* The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common

Expenses and financial report for the prior year and the proposed budget for the current year.

- (iii) *Budget.* The proposed budget for the ensuing fiscal year shall be presented to the Owners for approval or amendment unless otherwise changed by the Board of Directors. The fiscal year shall be on a calendar year basis.
- (iv) *Election of Board of Directors.* Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the date of the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he or she is entitled for as many nominees as are to be elected, however, he or she shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Owner shall sign his ballot. The Board may provide a method to assure secrecy of the ballot. The foregoing provisions are subject to the provisions of Section 3.02.
- (v) *Other Business.* Other business requiring a vote may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least seven (7) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the Percentage Vote. Any other general business matters of discussion that do not require a vote may be properly brought before the meeting by any Co-Owner in good standing.
- (vi) *Adjournment.*

(g) *Conduct of Special Meeting.* The President of the Board of Directors shall act as Chairman of any special meetings of the Association if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be discussed and acted upon at such meeting shall be consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

ARTICLE III BOARD OF DIRECTORS

Section 3.01. Management and Number; Board Composition. The affairs of the Condominiums and the Association shall be governed and managed by the Board of Directors (collectively, the "Board" or "Directors," and individually, the "Director"). The Board shall be

initially composed of three (3) persons selected by the Declarant, as described in Section 3.02 below. The total number of Directors shall at no time exceed five (5). No person shall be eligible to serve as a Director unless he or she is, or is deemed in accordance with the Declaration to be, an Owner, excluding a person appointed by Declarant as provided in Section 3.02.

Section 3.02. Initial Board of Directors. The initial Board of Directors shall be three (3) persons (herein referred to as the “Initial Board”), all of whom have been or shall be appointed by Declarant. Declarant reserves the right to remove or replace any of such persons as Directors prior to the first annual or special meeting of the Association. Notwithstanding anything to the contrary contained in, or any other provisions of these Bylaws or the Declaration or the Act, the Initial Board, subject to the removal and replacement rights of Declarant, shall hold office until a special meeting of the Association for election of Directors, which shall be held not later than four (4) months after eighty percent (80%) of the Units have been conveyed by Declarant to other Owners, or five (5) years from the date of recording of the Declaration, whichever is earlier (hereinafter referred to as the “Applicable Date”). In the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, every such vacancy shall be filled by a person appointed by Declarant, and such person shall subsequently be deemed a member of the Initial Board.

Section 3.03. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, personal representative of an estate, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee or personal representative of an estate shall be eligible to serve on the Board of Directors.

Section 3.04. Term of Office and Vacancy. Subject to the provisions of Section 3.02, the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board of Directors shall be deemed to be elected as the Board of Directors for successive annual terms until the Applicable Date. Directors shall hold office for a term of one (1) year or until their successors have been duly elected and qualified. Subject to the provisions of Section 3.02, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 3.05. A Director filling a vacancy shall serve until the next annual meeting of the Association or until his successor has been duly elected and qualified.

Section 3.05. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the Percentage Vote at a special meeting of the Owners duly called and constituted for such purpose. In such case, the Director’s successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners or until the Director’s successor is duly elected and qualified.

Section 3.06. Duties of the Board of Directors. The Board of Directors shall provide for the administration of, the maintenance, upkeep and replacement of the Common Areas and Limited Areas (unless the same are otherwise the responsibility or duty of Owners of Units), and the collection and disbursement of the Common Expenses. After the recording of the

Declaration the Board may, on behalf of the Association, employ a property management agent (the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance, maintenance and replacement of the Common Areas and Limited Areas, unless the same are otherwise the responsibility or duty of Owners of Units; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent may provide any on-site or roving guards, security service or security system for protection or surveillance;
- (b) procuring utilities used in connection with operation of the Condominiums;
- (c) arranging for removal of garbage, waste, and snow from the Common Areas;
- (d) landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Areas and, where applicable, the Limited Areas;
- (e) surfacing, paving and maintaining private streets, parking areas, recreational facilities and sidewalks;
- (f) assessment and collection from the Owners of the Owners' pro rata shares of the Common Expenses, including: (i) determination of whether improvements are to Common or Limited Common Areas pursuant to the terms and conditions of the Declaration and By-Laws; (ii) determination of whether expenses incurred with respect to the same are allocable to all or fewer than all the Owners; and (iii) the allocation of all expenses among the respective Units of the Condominium;
- (g) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (h) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year, which shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (i) keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours; payment vouchers for all expenditures shall, prior to payment, be approved by a member of the Board or such other person (which may include the Managing Agent) to whom the Board may delegate such duty and authority;

(j) procuring and maintaining for the benefit of the Owners, the Association and the Board the insurance coverage required under the Declaration and such other insurance coverage as the Board, in its sole discretion, may deem necessary or advisable;

(k) interpreting, applying and enforcing all restrictive covenants, rules and regulations established by the Declaration, Bylaws or Board with respect to the Owners or users of Units within or relating to the use, maintenance or repair of the Property; and

(l) enforce the lien procedures against any property for which assessments are not paid within thirty (30) days, or such other period of time as the Board shall from time to time determine, after due date, or to bring an action at law against the Owner personally obligated to pay the same.

Section 3.07. Powers of the Board of Directors. The Board of Directors shall have such full powers as are provided in the Act and are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ a Managing Agent to assist the Board in performing its duties;

(b) to purchase for the benefit of the property and Owners such equipment, materials, labor and services as may be necessary in the judgment of the Board;

(c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board may be necessary or desirable in connection with the business and affairs of the Condominiums and the Association;

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Board may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and, where applicable, the Limited Areas;

(e) to procure and maintain in adequate amounts for the benefit of the Owners fire and extended coverage insurance covering the Building and the Property to the full insurable value thereof together with "all risk" coverage and insurance amounts for the "full replacement value," if economically available, and to procure public liability and property damage insurance and Workers' Compensation Insurance, if necessary, for the benefit of the Owners and the Association;

(f) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(g) to open and maintain a bank account or accounts in the name of the Association;

(h) to adopt, revise, amend and alter from time to time, rules and regulations with respect to use, occupancy, operation and enjoyment of the Property;