

LILLIE J. BREAUX  
MARION COUNTY RECORDER

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OFFICE OF THE COUNTY RECORDER  
OBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER



**DECLARATION**  
**OF**  
**THE BROWNSTONES AT LOCKERBIE PARK CONDOMINIUM**

This Declaration of The Brownstones at Lockerbie Park Condominium ("Declaration"), made and entered into as of the 15<sup>th</sup> day of MARCH, 2007, by 500 Block, LLC, an Indiana limited liability company (the "Declarant") for itself, and on behalf of its successors, grantees, and assigns, WITNESSETH THAT:

WHEREAS, Declarant is the fee simple owner of certain real estate located in Marion County, Indiana and more particularly described on Exhibit A, attached hereto and made a part hereof by this reference (the "Real Estate"); and

WHEREAS, Declarant, by execution of this Declaration, hereby creates Condominium upon that portion of the Real Estate hereinafter defined as the Tract, subject to the provisions of the Condominium Law and in accordance with the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. **Definitions.** The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Act" means the Condominium Law of the State of Indiana, I.C. 32-25-1-1 et seq., as amended. The Act is incorporated herein by this reference.

(b) "Applicable Date" means the date determined pursuant to Section 3.02 of the Bylaws.

(c) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Corporation, as hereinafter defined, as the same may be amended from time to time. The Articles of Incorporation are incorporated herein by this reference.

(d) "Assessments" mean the Regular Assessments and Special Assessments.

(e) "Board of Directors" or "Board" means the governing body of the Corporation being the Initial Board referred to in the Bylaws or any subsequent Board of Directors elected by the Members in accordance with the Bylaws.

(f) "Building" means each structure on the Tract in which any Condominium Unit is located. The initial Buildings are more particularly described and identified on the Plans and in this Declaration. "Building" also includes any additional structures containing one or more Condominium Units which may be submitted and subjected to the Act and this Declaration by Supplemental Declaration as herein provided, and identified in the Supplemental Declaration and on the plans filed therewith.

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(g) "Bylaws" mean the Bylaws of the Corporation providing for the administration and management of the Property and restrictions on its use, as required by and in conformity with the Act, as the same may be amended from time to time. A true copy of the existing Bylaws is attached to this Declaration as Exhibit B and incorporated herein by this reference.

(h) "Common Areas" mean the common areas and facilities appurtenant to the Property which are depicted and/or described as such in the Plans or otherwise defined as such in Paragraph 6 of this Declaration, including, without limitation, the Limited Areas.

(i) "Common Expenses" mean expenses for administration of the Corporation and for the leasing, upkeep, maintenance, repair and replacement of the Common Areas and the Limited Areas (to the extent provided herein), and all sums lawfully assessed against the Members of the Corporation.

(j) "Condominium Unit" means each one of the individual units in the Building which are depicted and/or described in the Plans and in Paragraph 5 of this Declaration, and each additional individual unit which may be submitted and subjected to the Act and this Declaration by Supplemental Declaration as herein provided. "Condominium Unit" includes the undivided interest in the Common Areas and any Limited Areas appertaining to such unit.

(k) "Co-owners" means all of the Owners of all of the Condominium Units.

(l) "Corporation" means The Brownstones at Lockerbie Park Owners Association, Inc., a not-for-profit corporation, and its successors and assigns, whose Members shall be the Owners of Condominium Units, such Corporation being more particularly described in Paragraph 12 of this Declaration.

(m) "Declarant" means 500 Block, LLC, an Indiana limited liability company, and its successors and assigns including, but not limited to, any mortgagee acquiring title to any portion of the Tract pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(n) "Limited Areas" mean those Common Areas, the use and enjoyment of which are limited to certain Condominium Units, which are depicted and/or described as such in the Plans or otherwise defined as such in Paragraph 7 of this Declaration.

(o) "Member" means a member of the Corporation and "Members" mean the members of the Corporation.

(p) "Mortgagee" means the holder of a first mortgage lien on a Condominium Unit and "Mortgage" means a first mortgage lien on a Condominium Unit.

(q) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, owning fee simple title to a Condominium Unit; provided that persons or entities owning a Condominium Unit as

tenants in common, joint tenants, tenants by the entities or any form of joint or divided ownership shall be deemed one Owner for purposes of this Declaration.

(r) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas appertaining to each Condominium Unit as determined and/or expressed in Paragraph 8 of this Declaration.

(s) "Percentage Vote" means that percentage of the total vote accruing to all the Condominium Units which is appurtenant to each particular Condominium Unit and accrues to the Owner thereof. The Percentage Vote to which each Owner shall be entitled on any matter upon which the Owners are entitled to vote shall be the same percentage as the Percentage Interest appurtenant to such Owner's Condominium Unit.

(t) "Property" means the Tract and appurtenant easements, the Condominium Units, the Buildings, leasehold interests of the Corporation in any real estate located adjacent to the Tract, and the improvements 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 thereof, but does not include the personal property of any Owner.

(u) "Plans" means all floor, building and site plans and elevations of the Buildings and Condominium Units prepared by Ratio Architects, Inc., a registered engineer/architect, under date of \_\_\_\_\_, 200\_\_, and filed in the Office of the Recorder of Marion County, Indiana, all of which are incorporated herein by this reference, and any supplemental plans that are prepared and filed in connection therewith.

(v) "Regular Assessment" means the regular assessment applicable to all Owners as provided in Paragraph 13 of this Declaration and in the Bylaws.

(w) "Special Assessment" means the special assessment applicable to all Owners as provided in Paragraph 13 of this Declaration and in the Bylaws.

(x) "The Brownstones at Lockerbie Park" or the "The Brownstones at Lockerbie Park Condominium" means the name by which the Property, and the Condominium created hereby, shall be known.

(y) "Tract" means that portion of the Real Estate which is described on Exhibit C and depicted on Exhibit E, attached hereto and made a part hereof by this reference, and such other portions of the Real Estate which have, as of any given time, been subjected to the Act and this Declaration by an amendment or supplement to this Declaration.

2. Declaration. Declarant hereby expressly subjects the Property to the Act and declares that the Property shall be a Condominium in accordance therewith.

3. Description of Buildings. There will initially be two (2) Buildings on the Real Estate ("Building 1" and "Building 2"), each which will be no more than three (3) stories in height, plus no more than one (1) lower level. Building 1 will contain a total of not more than ten (10) Condominium Units, all as depicted and/or described on the Plans, and Building 2 will

contain a total of not more than twelve (12) Condominium Units, all as depicted and/or described on the Plans.

4. Legal Description. Each Condominium Unit is identified on the Plans by a Unit number. The legal description for each Condominium Unit shall consist of the Unit number as shown on the Plans, and shall be stated as "Unit \_\_\_\_ of The Brownstones at Lockerbie Park Condominium, as established by the Declaration of The Brownstones at Lockerbie Park Condominium recorded on \_\_\_\_\_, \_\_\_\_\_ as Instrument No. \_\_\_\_\_ in the Office of the Recorder of Marion County, Indiana."

5. Description of Condominium Units.

(a) Appurtenances. Each Condominium Unit shall consist of all space within the boundaries thereof, as hereinafter defined, including but not limited to and together with: (a) the drywall, wall paneling, wood, tile, paint, paper, carpeting, or any other wall, ceiling, or floor covering, windows and window frames and glass, shutters, awnings, doorsteps, stoops, and interior doors and door frames; (b) any fire place or stove hearth, facing brick, tile or firebox; (c) fixtures and hardware and all improvements contained within the unfinished perimeter walls, ceilings, and floors; and (d) any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air conditioning, hot and cold water, electrical, or other utility services to the Condominium Unit and located within the unfinished walls, ceilings, and floors; provided, however, that a Condominium Unit shall not include any of the structural components of the Building or utility or service lines located within the Condominium Unit but serving more than one Condominium Unit or the Common Areas.

(b) Boundaries. The boundaries of each Condominium Unit shall be as shown on the Plans and shall consist of the enclosed rooms in the applicable Building and bounded by the unfinished perimeter walls, ceilings and floors thereof. An unfinished wall, ceiling and floor means the concrete slabs, framing or other structural materials which constitute the wall, ceiling or floor, as the case may be, of a Condominium Unit. In the event any horizontal or vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling surface of the Condominium Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Condominium Unit shall be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual location.

6. Common Areas.

(a) Description. "Common Areas" mean (a) the Tract, (b) the foundations, columns, girders, beams, supports and exterior surfaces of roofs of each Building, (c) sidewalks and driveways, (d) landscaped areas as designated on the Plans (the "Landscaped Area"), (e) central electricity, gas, water, air conditioning and sanitary sewer serving any Building (including those located in the interior of any Building), if any, (f) exterior lighting fixtures and electrical service lighting the exterior of any Building unless separately metered to a particular Condominium Unit, (g) pipes, ducts, electrical wiring and conduits and public utilities lines not located within any Condominium Unit or which serve more than one Condominium Unit, (h) floors, roofs and exterior perimeter walls of each Building, except to the extent the same are

otherwise classified and defined herein as part of the Condominium Unit, (i) all improvements, facilities and appurtenances located outside of the boundary lines of the Condominium Units, (j) Limited Areas, except those areas and facilities expressly classified and defined herein as part of any Condominium Unit; and (k) those areas of any Building designated on the Plans as Common Areas.

(b) Landscaped Area Open to Public. The Landscaped Area shall be open to the public and shall not be gated or present any impediments to access or use by the public; provided, however, the Corporation may impose reasonable regulations for use and enjoyment of said Landscaped Area.

7. Limited Areas. Limited Areas and those Condominium Units to which use thereof is limited are as follows:

(a) Balconies, entryways, stairwells, decks, patios and porches attached or adjacent to a particular Condominium Unit and designated by reference on the Plans, the deed to a particular Condominium Unit or any other recorded agreement between the Owner of the Condominium Unit and the Declarant or the Corporation for use by the Owner of a particular Condominium Unit shall constitute Limited Areas and be limited to the exclusive use of the Condominium Unit to which they are attached or adjacent.

(b) Any parking spaces which are either (i) owned by the Corporation or (ii) leased by the Corporation (the "Parking Areas"), and which are designated by reference on the Plans, the deed to a particular Condominium Unit or any other agreement between the Owner of the Condominium Unit and the Declarant or the Corporation for use by the Owner of a particular Condominium Unit shall constitute Limited Areas and be limited to the exclusive use of the Condominium Unit to which such use is designated.

(c) Any other areas designated and shown on the Plans as Limited Areas shall constitute Limited Areas and be limited to the Condominium Unit or Condominium Units to which they appertain as shown on the Plans or as provided in an agreement between the Owner of the Condominium Unit and the Declarant or the Corporation.

8. Ownership of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas, as tenants in common with all other Owners, equal to such Owner's Condominium Unit's Percentage Interest. The Percentage Interest of each Condominium Unit shall be a percentage equal to the square footage of the particular Condominium Unit divided by the total square footage of all Condominium Units which constitute a part of The Brownstones at Lockerbie Park. The square footage of each Condominium Unit and the initial Percentage Interest of each Owner in the Common Areas as calculated in accordance with this Paragraph 8 and the Act are set forth on Exhibit D, attached hereto and made a part hereof. Except as otherwise provided or permitted in Paragraph 14 or elsewhere herein, the Percentage Interest appertaining to each separate Condominium Unit in the Common Areas shall be of a permanent nature and shall not be altered without the unanimous consent of all the Owners (including Declarant, so long as Declarant owns any Condominium Unit) and Mortgagees, and then only if in compliance with all requirements of the Act.

The Percentage Interest appertaining to each Condominium Unit shall also be the Percentage Vote allocable to the Owner thereof in all matters with respect to The Brownstones at Lockerbie Park.

9. Encroachments and Easements for Common Areas. If, by reason of the location, construction, settling or shifting of the Property or any other reason, any Common Area now encroaches or shall hereafter encroach upon any Condominium Unit, then in such event, an easement shall be deemed to exist and run to the Co-owners and the Corporation for the maintenance, use and enjoyment of such Common Area.

Each Owner shall have an easement in common with all other similarly situated Co-owners to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Condominium Units and serving his Condominium Unit. Each Owner shall have the right of ingress and egress to and from such Owner's Condominium Unit, with such right being perpetual and appurtenant to the ownership of the Condominium Unit.

10. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Condominium Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Condominium 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 or allocated to the Property in accordance with his or its respective Percentage Interest.

11. Utilities. Each Owner shall pay for his 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.

12. Association of Owners. Subject to the rights of Declarant reserved in Paragraph 24 hereof and the obligations of the Owners, the maintenance, repair, upkeep, replacement, administration, management and operation of the Property exclusive of the Condominium Units and the Limited Areas appurtenant to the Condominium Units shall be the obligation of the Corporation. Each Owner of a Condominium Unit shall, automatically upon becoming an Owner of a Condominium Unit, be and become a Member of the Corporation and shall remain a Member of the Corporation until such time as his ownership of a Condominium Unit ceases, and each Owner's membership shall terminate when such person ceases to be the Owner of a Condominium Unit, and shall be transferred to the new Owner.

The Corporation shall elect a Board of Directors annually (except for the Initial Board, as defined in the Bylaws, which shall be appointed by Declarant) in accordance with and as prescribed in 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 who shall serve for the period provided in the Bylaws. Each person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a member of the Corporation 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 shall be deemed or considered a Member of the Corporation nor an Owner of a Condominium Unit for any other purpose (unless he is actually the Owner of a Condominium Unit and thereby a Member of the Corporation).

The Board of Directors shall be the governing body of the Corporation, representing all of the Owners in providing for the management, administration, operation, maintenance, repair, replacement and upkeep of the Property exclusive of the Condominium Units. Subject to the provisions of Paragraph 26 of this Declaration and Section 3.06 of the Bylaws, the Board of Directors may provide for professional management of the Property.

13. Maintenance, Repairs and Replacements.

(a) Each Owner shall, at his expense, be responsible for the maintenance, repairs, decoration and replacement of his own Condominium Unit and, to the extent provided in this Declaration or the Bylaws, for the Limited Areas reserved or designated for the exclusive use of his Condominium Unit or the Owner thereof. Each Owner shall repair any defect or condition in his Condominium Unit and the Limited Areas appurtenant to the Condominium Units, which, if not repaired, might adversely affect any other Condominium Unit or Common Area. Maintenance, repairs, replacements and upkeep of the Common Areas or that portion of the Property covered by the Corporation's insurance as provided in Paragraph 15 shall be furnished by the Corporation as part of the Common Expenses, except as otherwise provided herein or in the Bylaws. The Board of Directors shall adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas as it deems advisable, necessary or appropriate, and may amend and modify the same from time to time as it deems advisable, necessary or appropriate. The Board of Directors or their designated agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency, in which case no notice shall be required), to enter into each individual Condominium Unit for the purpose of inspection of the Common Areas appurtenant thereto and replacement, repair and maintenance of such Common Areas.

(b) As of the first day of the first month following the conveyance of the first Condominium Unit located in any Building and the Percentage Interest appurtenant thereto, each Condominium Unit located in such Building and the Percentage Interest appurtenant thereto shall be subject to (and as of the first day of the first month following the conveyance of the first Condominium Unit located in any additional Building and the Percentage Interest appurtenant thereto, each Condominium Unit located in any additional Building and the Percentage Interest appurtenant thereto shall be subject to) the Regular Assessments and Special Assessments (as determined by Declarant and/or the Board of Directors, as applicable) (collectively, the "Assessments"), as provided in this Paragraph 13 and Article V of the Bylaws, and all such Assessments shall constitute liens upon each Condominium Unit and appurtenant Percentage Interest as provided and described in this Declaration and the Bylaws. The date(s) on which Assessments are due and payable shall be as specified in this Declaration or the Bylaws, or if not so specified, then as determined by the Board of Directors. In addition, each Owner shall be personally liable for the amounts of any and all Assessments which become due and payable during the period in which such Owner holds title to a Condominium Unit. Except as set forth in the Bylaws, no Owner shall be personally liable for any Assessments which first became due and payable prior to the time such Owner took title to a Condominium Unit unless he expressly assumes such liability, or except as may otherwise be required by the Act. However, a conveyance by an Owner of his Condominium Unit shall not operate to release or limit the liability of such Owner for Assessments which became due and payable while such Owner held title to a Condominium Unit. The lien of any Assessment shall be subordinate to the lien of any Mortgage on any Condominium Unit which was recorded before the time when

said Assessment first became delinquent, and any sale or transfer of a Condominium Unit pursuant to a foreclosure of a Mortgage shall extinguish such subordinate liens. Notwithstanding the foregoing, Declarant shall be excused from contributing toward Common Expenses as provided in subparagraph 13 (d) below.

(c) Each Assessment shall be due and payable on the due date(s) thereof as specified in this Declaration or the Bylaws, or if not so specified, then on the due date(s) determined by the Board of Directors, and the date for the payment of such Assessment is hereby termed the "Delinquency Date". Any Assessment which is not paid in full by the Delinquency Date shall be deemed delinquent without further notice or demand to the defaulting Owner, and such Owner shall be charged a fifty dollar (\$50.00) late fee plus an additional five dollars (\$5.00) per day from the Delinquency Date until paid in full. In the event that any costs or expenses, including, without limitation, attorneys' fees, are incurred by or on behalf of the Association with respect to the recovery or collection of any delinquent Assessment, all such costs and expenses shall be due and payable immediately by such delinquent Owner and shall bear interest from the dates incurred until paid in full, at a rate of interest equal to eighteen percent (18%) per annum. All interest, late fees, costs and expenses payable hereunder with respect to a delinquent Assessment shall be added to and deemed a part of such delinquent Assessment and shall constitute a lien on the delinquent Owner's Condominium Unit and Percentage Interest as of the date on which such delinquent Assessment first became a lien. In the event that any Assessment is not fully paid on or before the Delinquency Date, the Association shall be entitled to accelerate and declare due and payable in full all installments of Assessments due for the year in which such delinquency occurs, and to enforce payment of the same by foreclosure of said lien and/or other appropriate legal proceedings in accordance with the laws of the State of Indiana. Any such lien against a Condominium Unit and its Percentage Interest shall be subordinate to the lien of any Mortgage encumbering such Condominium Unit and its Percentage Interest if and to the extent the Mortgage creating such first mortgage lien was recorded prior to the due date of the delinquent Assessments.

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

14. Alterations, Additions and Improvements. No Owner shall make any alterations or additions to or which would affect the Common Areas without the prior written approval of the Board of Directors, nor shall any Owner make any alteration in or to his respective Condominium Unit which would affect the safety or structural integrity of the Building in which the Condominium Unit is located nor shall any Owner change the color of any of the Common Areas without the prior written approval of the Board of Directors. Declarant reserves the right to change the interior design and arrangement of all Condominium Units and alter the boundaries between Condominium Units so long as Declarant owns the Condominium Units so changed or altered. If Declarant shall make any such change or alteration, such change or alteration shall be reflected by a supplement or amendment to the Plans executed by the



Declarant and recorded in the Office of the Recorder of Marion County, Indiana, if necessary. Simultaneously with the recording of any such amendment or supplement to the Plans, Declarant shall record an amendment or supplement to this Declaration allocating Percentage Interests so that the Condominium Units depicted on such new Plans shall be allocated Percentage Interests in the Common Areas on the same basis as the Condominium 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 Corporation or any other Owners.

15. Insurance. The Co-Owners, through the Corporation, shall purchase a master casualty insurance policy, using generally acceptable insurance carriers, affording fire and extended coverage insurance on all portions of the Building which are not part of a Condominium Unit and comprise the Common Areas in an amount equal to the full replacement value of such improvements. If the Board of Directors can obtain "all risk" 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 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 name each Owner and, if applicable, the Mortgagee of each Owner, as insureds and shall be for the benefit of each such Owner and Mortgagee in accordance with the following terms and conditions:

All proceeds payable as a result of casualty losses sustained, which are covered by insurance purchased by the Corporation as hereinabove set forth, shall be paid to it or to the Board of Directors, who shall act as the insurance trustees and hold such proceeds for the benefit of the individual Owners and Mortgagees. The proceeds shall be used or disbursed by the Corporation or Board of Directors, only in accordance with the provisions of this Declaration and any surety bond or bonds obtained by the Board of Directors concerning the officers of the Corporation, as provided in the Bylaws, shall specifically include protection for any insurance proceeds so received.

The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of each damaged Owner to the damages of all Owners directly damaged by any event insured under the said master casualty insurance policy. No Owner or any other party shall have priority over any rights of a Mortgagee pursuant to its Mortgage in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any Condominium Unit and/or Common Areas. The Corporation shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Each Owner appoints the Corporation to act for and on behalf of the Owners for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability and the performance of all other acts necessary to accomplish such purposes.

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 Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, (b) waives any defense based on the

invalidity arising from the acts of the insured, and (c) contains an endorsement that such policy shall not be terminated for non-payment of premiums without at least ten (10) days prior written notice to Mortgagees and to the Corporation 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 hereinafter permitted, (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Paragraph 16 of this Declaration, and (iii) an agreed amount endorsement or an inflation guard endorsement to the extent such are commonly required by prudent institutional mortgage investors in the metropolitan Indianapolis area.

The Co-owners, through the Corporation, shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Corporation, the Board of Directors, any committee or organization of the Corporation or Board of Directors, any managing agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to The Brownstones at Lockerbie Park, all Owners of Condominium Units and all other persons entitled to occupy any Condominium Unit or other portions of The Brownstones at Lockerbie Park. Such policy shall provide that it may not be cancelled or substantially modified without at least ten (10) days prior written notice to the Corporation and all Mortgagees.

The Co-owners, through the Corporation, shall also obtain any other insurance required by law to be maintained, including but not limited to worker's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. 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 Corporation, the Board of Directors and any managing agent acting on behalf of the Corporation.

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

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 his Mortgagee jointly.

Each Owner shall be solely responsible for loss or damage to his Condominium Unit and the contents thereof however caused (including, but not limited to, all floor, ceiling and wall coverings and fixtures, light fixtures, appliances and betterments and improvements installed by such Owner) and his personal property stored elsewhere on the Property, and the Corporation shall have no liability to the Owner for loss or damage to the contents of any Condominium Unit. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk. Each Owner shall have the right to purchase such additional

insurance at his own expense as he may deem necessary, including but not limited to: (1) personal liability insurance, provided that 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 Corporation; and (2) casualty insurance upon his Condominium Unit, but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Corporation. 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 Corporation pursuant to this Paragraph due to proration 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 Corporation to be distributed as herein provided.

The Corporation shall provide written notice to all Owners or Mortgagees (whose interests may be affected) of obtainment of any insurance policy provided for herein or subsequent revision or termination of the same.

16. Casualty and Restoration.

(a) Except as provided in subparagraph 16(g) below, damage to or destruction of any portions of any Building which are not part of a Condominium Unit due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Corporation and the proceeds of insurance, if any, shall be applied for that purpose.

(b) If any insurance proceeds received by the Corporation 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, the cost for restoring the damage and repairing and reconstructing the Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be a Common Expense and assessed as part of the Common Expenses.

(c) For purposes of subparagraph (a) and (b) above, repair, reconstruction and restoration shall mean construction or rebuilding of those portions of any Building which are not a Condominium Unit to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

(d) Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Corporation 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.

(e) 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 in payment of the costs of reconstruction and repair in the following manner:

(i) If the amount of the estimated cost of reconstruction and repair is Twenty Thousand Dollars (\$20,000.00) or less, 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 hereinafter provided in the following Paragraph (ii).

(ii) If the estimated cost of reconstruction and repair of those portions of any Building which are not a Condominium Unit is more than Twenty Thousand Dollars (\$20,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect 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, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, and certifying (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (2) that there is no other outstanding indebtedness known to the said architect for the services and materials described; and (3) 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 the construction fund remaining after payment of the sum so requested.

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

(iv) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board of Directors as a reserve or may be used in the maintenance and operation of the Common Areas. 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.

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

proceeds of settlement shall be payable to the Corporation to be held in trust for the Owners and Mortgagees as their interests may appear and the provisions of the Declaration relating to restoration and allocation of funds in the event of a casualty shall be applicable in the event of a condemnation.

(g) In the event of complete destruction of all of the Buildings containing Condominium Units, the Buildings shall not be repaired and reconstructed by the Corporation unless by a vote of two-thirds (2/3) of all of the Co-owners a decision is made to rebuild all of the Buildings. A determination of complete destruction of all of the Buildings containing Condominium Units shall be made by a vote of two-thirds (2/3) of all Co-owners at a special meeting of the Corporation called for that purpose. A special meeting of the Corporation shall be called and held within thirty (30) days after any fire or any other casualty or disaster damaging or destroying all of the Buildings for the purpose of making the determination of whether or not there has been a complete destruction of all of the Buildings. If such a special meeting is not called and held within such thirty (30) day period, or if the determination of whether or not there has been a complete destruction of all of the Buildings has not been made within such thirty (30) day period, then it shall be conclusively presumed that the Co-owners determined that there was not a complete destruction of all of the Buildings. If all of the Buildings containing Condominium Units are not repaired and reconstructed, then (i) the insurance proceeds, if any, shall be divided among the Co-owners in the percentage by which each owns an undivided interest in the Common Areas, and (ii) the Property shall be considered as to be removed from the Act under I.C. §32-25-8-16.

17. Covenants and Restrictions. Additional covenants and restrictions applicable to the use and enjoyment of the Condominium Units and the Common Areas and Limited Areas are set forth in the Bylaws. These covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from any violations thereof, 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 Bylaws, including, but not limited to any covenants and restrictions set forth in the Bylaws, Declarant shall have the right to use and maintain any Condominium Units owned by Declarant and such other portions 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, 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.

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

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

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

(c) 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.

(d) Adoption. 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 Condominium 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.

(e) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the Percentage Interest with respect to any Condominium Unit or the applicable share of an Owner's liability for the Common Expenses, without the approval of one hundred 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 except as otherwise provided or permitted in Paragraph 14 or elsewhere herein, or (2) the provisions of Paragraph 16 of this Declaration with respect to reconstruction or repair in the event of fire or any other casualty or disaster, without the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Bylaws, or (3) the provisions of Paragraph 12 regarding the obligation of the Board of Directors to provide professional management for The Brownstones at Lockerbie Park, or (4) the provisions of Paragraph 15 providing for no priority of an Owner or other person over a Mortgagee as to insurance or condemnation proceeds.

(f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation and shall include an affidavit stating that Owners representing sixty-seven percent (67%) of the aggregate of Percentage Vote or such other amount as required by this Declaration have approved the amendment and shall be recorded in the Office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

(g) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein to the contrary, the Declarant shall have the right acting alone and without the consent or approval of the Co-owners, the Corporation, the Board of Directors, any Mortgagees or any other person or entity at any time prior to the Applicable Date to amend or supplement this Declaration from time to time if (i) such amendment or supplement is necessary to conform this Declaration to the Act, as amended from time to time, or (ii) such amendment or supplement is made to implement or in connection with the reconfiguration, subdivision or combining of Condominium Units owned by Declarant as set forth in Paragraph 14 hereof, or (iii) such amendment is necessary to comply with requirements of the Federal National Mortgage Association,

the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing & Urban Development, the Federal Housing Association, the Veteran's Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, or (iv) such amendment is necessary to correct clerical or typographical errors or to clarify Declarant's original intent, or (v) such amendment is necessary to implement any changes in The Brownstones at Lockerbie Park permitted to be made by Declarant under this Declaration.

(h) Special Requirements. Notwithstanding anything to the contrary contained herein or in the Bylaws, unless specifically controlled by a more restrictive provision under Indiana law or contained herein, the Corporation shall not, without the prior written notice to all Mortgagees and the prior written consent of at least sixty-seven percent (67%) of the Mortgagees (based upon one vote for each mortgage held on a Condominium Unit) and of the Owners (other than Declarant) be entitled to:

(i) by act or omission, seek to abandon or terminate the Condominium; or

(ii) except in connection with the expansion of the Property or the subdivision or combining of Condominium Units owned by Declarant, change the pro rata interest or obligations of any individual Condominium Unit for the purpose of: (x) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (y) determining the pro rata share of ownership of each Condominium Unit in the Common Areas; or

(iii) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas (provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas shall not be deemed transfers within the meaning of this clause); or

(iv) use hazard insurance proceeds for losses to any part of the Property (whether to Condominium Units or to Common Areas) for other than the repair, replacement or reconstruction of such Property.

19. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Condominium Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the Bylaws appended thereto, 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 deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement that the provisions of this Declaration, the Act, the Bylaws and rules and regulations as each may be amended or supplemented from time to time are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having any interest or estate from time to time in a Condominium Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Condominium Unit or Condominium Units or any part of the

Property in any manner shall be subject to the Declaration, the Act, the Bylaws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

20. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their invitees, licensees, guests, employees, agents or lessees, (including but not limited to damage caused by any pet or any automobile) to the extent that such expense is not covered by the proceeds of insurance received by the Corporation. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Condominium Unit or its appurtenances or of the Common Areas or Limited Areas.

21. Waiver. No Owner may exempt himself from liability for his 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 his Condominium Unit.

22. Expandable Condominium and Declarant's Reserved Rights. The Property and The Brownstones at Lockerbie Park is and shall be an "expandable condominium," as defined in the Act, and Declarant expressly reserves the right and option to expand the Property and The Brownstones at Lockerbie Park in accordance with the provisions of the Act and the following provisions:

(a) The real estate described and defined herein as the Tract (in Paragraph 1 of this Declaration) is the real estate being subjected to The Brownstones at Lockerbie Park Condominium by this Declaration and constitutes the first phase of the general plan of development of the Real Estate. The balance of the Real Estate is the area into which expansion of The Brownstones at Lockerbie Park may be made by Declarant. The maximum number of Condominium Units which may be developed on the Real Estate, including Condominium Units on the Tract as defined in this original Declaration, shall be seventy (70). Subject to said limit as to the maximum number of Condominium Units to be developed on the Real Estate, The Brownstones at Lockerbie 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 The Brownstones at Lockerbie 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 \_\_\_\_\_, 2017. Such expansion is entirely at the discretion of Declarant and nothing contained in this Declaration or otherwise shall require Declarant to expand The Brownstones at Lockerbie Park beyond the Tract (as defined and described in Paragraph 1 of this Declaration) 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. Prior to the sale of any Unit in any additional phase, Declarant shall record as-built plans with respect thereto.

(b) The Percentage Interest which will appertain to each Condominium Unit in The Brownstones at Lockerbie Park as The Brownstones at Lockerbie Park may be expanded or reduced from time to time by Declarant shall be



determined in accordance with the Percentage Interest formula set forth in Paragraph 8 (including the Percentage Interest which appertains to each of the Condominium Units included in this original Declaration and in the expanded The Brownstones at Lockerbie Park).

(c) Simultaneously with the recording of amendments or supplements to this Declaration expanding The Brownstones at Lockerbie 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 Condominium Units depicted on such new Plans shall be allocated Percentage Interests in the Common Areas on the same basis as the Condominium Units depicted in the prior Plans. Such reallocation of Percentage Interests shall vest when the amendment or supplement to the Declaration incorporating such changes has been recorded.

(d) When the amendment or supplement to this Declaration incorporating the addition of Condominium 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 prior to such amendment or supplement 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 thereon upon the recordation of the amendment or supplement to this Declaration.

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 22. 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.

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:

(i) 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.

(ii) 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.

(iii) 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.

(iv) A right of revocation and reallocation 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.

(v) 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 The Brownstones at Lockerbie 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.

(vi) 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 Owner(s) (also known as Limited Areas) of specific Condominium Units as may be provided in any such amendment or supplement to this Declaration.

(vii) 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.

(viii) 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.

(ix) Each Owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this Paragraph 22 to comply with the Act as it may be amended from time to time.

23. Granting of Easements. The Corporation is granted the authority to grant easements in and to the Common Areas to utility companies upon such terms and conditions and for such consideration as it deems advisable, necessary or appropriate.

24. Reservation of Rights to the Use of the Common Areas.

(a) 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.

(b) 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).

(c) 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 Area which are developed or used as the Landscaped Area, and a roadway or driveway or other similar areas for the benefit of any of any adjacent real estate 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 Area.

25. 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 vehicles, shall have the right to enter upon the Common Areas and Limited Areas of The Brownstones at Lockerbie Park in the performance of their duties. 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, sewers, gas, telephones and electricity on the Property; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as initially designed and approved by Declarant or as thereafter may be approved by the Board of Directors and by the Corporation. By virtue of this easement, the electric and telephone utilities companies 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 Buildings.

26. Initial Management. As set forth in the Bylaws, the initial Board of Directors consists and will consist of persons selected by Declarant. Such initial Board of

Directors may enter into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) or a third party for a term not to exceed one (1) year with either party having the right to terminate upon ninety (90) days notice under which the management company will provide supervision, fiscal and general management and maintenance of the Common Areas and, in general, perform all of the duties and obligations of the Corporation. Such management agreement may be renewed by the parties for additional terms of one (1) year. In the event no management agreement exists because of termination or otherwise, the Corporation shall thereupon and thereafter resume performance of all such management duties, obligations and functions. Notwithstanding anything to the contrary contained herein prior to the Applicable Date, Declarant shall have, and Declarant hereby reserves to itself (either through a management company or otherwise), the exclusive right to manage the Property and to perform all the functions of the Corporation.

27. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Bylaws or the Act, or to comply with any provision of the Declaration, the Bylaws or the Act, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Corporation shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

28. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provisions of this Declaration or the Bylaws filed herewith shall not impair or affect in any manner the validity, enforceability or affect the remaining provisions of this Declaration or the attached Bylaws. In the event of any conflict between the terms of this Declaration and the terms of the attached Bylaws or Articles of Incorporation, the terms of this Declaration shall control.

29. Enforcement. The provisions of this Declaration, the Bylaws, the Articles of Incorporation or the Act may be enforced by the Corporation or by any aggrieved Owner through court proceedings for injunctive relief, for damages or for both.

30. Pronouns. Any reference to the masculine, feminine or neuter gender herein 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.

31. Floor Plans. The Plans setting forth the layout, location, identification numbers, and dimensions of the Condominium Units and the Property are incorporated into this Declaration by reference, and have been filed in the Office of the Recorder of Marion County, Indiana, in Condominium Plan File, as Instrument No. 2007-0057677

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

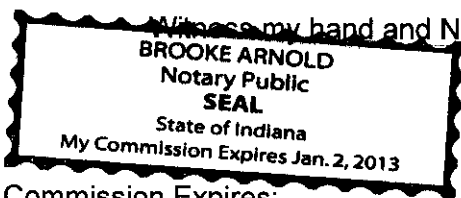
500 BLOCK, LLC,  
an Indiana limited liability company

By: Hearthview 500 Block, LLC, its Manager

By: Brian K Cranor  
Name: Brian K Cranor  
Title: MANAGER

STATE OF INDIANA            )  
  )  
  )        SS:  
COUNTY OF MARION        )

Before me, a Notary Public in and for said County and State, personally appeared Brian K. Cranor, as MANAGER of Hearthview 500 Block, LLC, in its capacity as manager of 500 Block, LLC, an Indiana limited liability company, and who acknowledged the execution of the foregoing "Declaration of The Brownstones at Lockerbie Park Condominium" in such capacity.



Witness my hand and Notarial Seal this 9<sup>th</sup> day of MARCH, 2007.  
Brooke Arnold  
\_\_\_\_\_, Notary Public

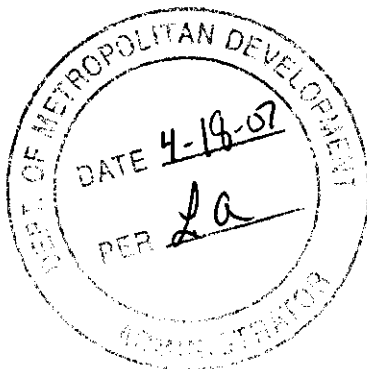
My Commission Expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_

This instrument prepared by Wataru Matsuyasu, Attorney at Law, Baker & Daniels, Suite 600, 600 East 96<sup>th</sup> Street, Indianapolis, Indiana 46240.

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

Roger A. Kumer



**INSTRUMENT APPROVED BY**