

RECEIVED

NOV 19 2009

MARION COUNTY ASSESSOR

BILLIE J. BREAUX
MARION COUNTY AUDITOR

014476 NOV 19 08

DULY RECORDED IN INSTRUMENT
SUBJECT TO FINANCIAL ACCEPTANCE
FOR TRANSFER

10

**FIRST AMENDMENT TO THE AMENDED AND RESTATED
DECLARATION OF HORIZONTAL PROPERTY REGIME
AND OF
EASEMENTS, RESTRICTIONS COVENANTS
AND BY-LAWS FOR
THE KNOLL CONDOMINIUM ASSOCIATION, INC.**

WHEREAS, the Knoll Horizontal Property Regime was originally created and formed pursuant to a certain Declaration of Horizontal Property Regime and of Easements, Restrictions, Covenants and By-Laws for The Knoll Condominium Association, Inc. recorded in the Office of the Recorder of Marion County, Indiana on July 7, 1979 as Instrument No 79-55147; and,

WHEREAS, the original Declaration was amended by a certain Amended and Restated Declaration of Horizontal Property Regime and of Easements, Restrictions, Covenants and By-Laws for the Knoll Condominium Association, Inc. recorded in the Office of the Recorder of Marion County, Indiana on March 21, 2001 as Instrument No 2001-0043742 (hereinafter referred to as the "Declaration"); and

WHEREAS, upon motion of the Board of Directors and after receiving the affirmative vote of not less than seventy-five percent (75%) of the Percentage Vote of the Co-Owners at a duly constituted meeting of the Association it is desired that the Declaration be amended;

NOW THEREFORE, the Declaration is amended to read as follows:

1. Article VI, is amended by adding a NEW Section 6.8 to read as follows:

Section 6.8 Failure to Pay Assessments. No Owner may exempt himself from paying Regular Assessments or Special Assessments. If an Owner fails to pay any assessment, when due, the Board, in its discretion may impose late fees or interest charges, which shall, together with the assessments become a lien on the Unit and the personal obligation of the Owner of the Unit. If the Owner of the Unit consists of more than one person, the liability shall be joint and several. 2.

2. Article VII, Section 7.1 (a) is amended to read as follows:

(a) Residential Use. All Units shall be used exclusively for residential purposes

and the occupancy of a single family. The definition of "Single Family" shall be no more than two persons per bedroom in the Unit. For purposes of this section a "bedroom" means a room that was designated or designed on the original plans and specifications of the Unit as a bedroom.

3. Article VII, Section 7.1 (q) is amended to read as follows:

(q) Leasing of Units. In order to insure that the residents within the Property share the same proprietary interest in and respect for the Units and the Common Areas, the following limitation is imposed on the leasing or rental of Units:

(1) Limit on Number of Leased Units. No more than fifteen (15) Units, at any given time, may be leased or rented for exclusive occupancy by one or more non-owner tenants. For purposes of this Section (q), a Unit is exclusively occupied by one or more non-owner tenants, if the Owner, *or a member of the Owner's family as defined herein*, does not also correspondingly occupy the Unit as his/her principal place of residence. *For purposes of this Section (q), a member of an Owners family includes a spouse, a child, a step-child, a parent, a parent of a spouse, a grandparent, a grandparent of a spouse, a grandchild, a step-grandchild, a sibling, a niece or a nephew.* Prior to the execution of any lease, and in addition to the requirements set forth in this Section (q), the Owner must notify the Board or the Board's agent as to the Owner's intent to lease his/her Unit. After receiving such notice, the Board or the Board's agent shall advise the Owner if the Unit may be leased or whether the maximum number of Units within the Property is currently being leased. If the maximum number of Units is already being leased, the Board or the Board's agent shall place the Owner on the waiting list in priority order based on the date of notice from the Owner, and shall notify the Owner of that Owner's position on the waiting list. When an existing non-owner occupant vacates a Unit, the Owner of that Unit shall immediately notify the Board or the Board's agent of such fact and that Unit cannot be re-rented or leased until all prior Owners on the waiting list, if any, have had a chance to rent or lease their Units. An Owner on the waiting list who obtains the opportunity to rent or lease his/her Unit, must present an executed lease to the Board or to the Board's agent, within sixty (60) days of the date of notice that he/she may rent or lease the Unit, or that Owner will forfeit his/her position on the waiting list.

(2) Limit on Number of Leased Units by a Single Owner. No Owner may lease or rent more than one Unit for exclusive occupancy by one or more non-owner tenants at any given time. For purposes of this subsection, a person is considered an Owner of a Unit if the name of the person is on the deed to the Unit or if the person has at least a five percent (5%) beneficial ownership in any entity which is named on the deed to the Unit.

(3) General Lease Conditions. All leases, including renewals, shall be

in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board. No portion of any Unit other than the entire Unit may be leased for any period. No subleasing is permitted. No Owner will be permitted to lease or rent his/her Unit, if the Owner is delinquent in paying any assessments or other charges due to the Association at the time the lease is entered. All leases shall be made expressly subject and subordinate in all respects to the terms of the Declaration, By-Laws and any rules and regulations promulgated by the Board, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Unit. In addition, the lease shall provide that a violation of the covenants and restrictions of the Declaration, the By-Laws, or the rules and regulations of the Association constitutes a breach of the lease, which may be directly enforced by the Association. All Owners who do not reside in the Unit shall provide the Board of Directors with the name of the tenant(s) and any other residents, *including members of the Owners family*, living in the Unit. The Owner shall supply copies of the Declaration, By-Laws and rules and regulations to the tenant prior to the effective date of the lease. In addition, the Board shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.

(4) Exceptions During Period of Good Faith Sale or Significant Hardship.

The Board of Directors may, in its discretion, grant an exception, for not more than one (1) year at a time, to the limit provided in this Subsection (q), to an Owner if the Board determines that the Owner is actively and in good faith trying to sell or otherwise dispose of his Unit or if the Board, by majority vote of the entire Board, determines that the Owner has a Significant Hardship. For purposes of this subparagraph, examples of a Significant Hardship may include:

- (A) death of a Owner;
- (B) divorce of an Owner;
- (C) temporary, necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of the Property due to a change of employment or retirement; or
- (D) temporary, necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of the Owners.

(5) Twelve Month Waiting Period. In addition to all other provisions, for a period of at least twelve (12) months after an Owner's acquisition of a Unit, the Owner cannot rent or lease that Unit for exclusive occupancy by one or more non-owner tenants. After such time, said Unit will be eligible to be leased if all other conditions are satisfied. In the case of the transfer of ownership of a Unit, which was properly leased under these rules by the previous Owner, the new Owner can continue with such lease only to finish the then current term of not more than one (1) year. When that term ends, the Owner, if he/she wants to lease his/her Unit, must meet all requirements the same as other Owners who

are not exempted.

(6) Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his/her responsibility to the Association and to the other Owners for compliance with the provisions of the Declaration, By-Laws and any rules and regulations promulgated by the Board, or from the Owner's liability to the Association for payments of assessments.

(7) Approval of Form of Lease. Any Owner desiring to enter into a lease for his/her Unit shall submit the form of the proposed lease to the Board (which form need not include the identity of the tenant or the rental amount) for review for compliance with the requirements of this Subsection (q). The Board may employ an attorney in connection with any such review, and a reasonable fee may be charged to the applicant to offset the expense so incurred. In the event the Board fails to approve or disapprove the form of the lease within thirty (30) days after submission by the applicant, the form of the lease shall be deemed approved. A copy of each executed lease by an Owner (which may have the rental amount deleted) shall be provided to the Board by the Owner within thirty (30) days after execution.

(8) Violations. If any Owner leases or rents his/her Unit in violation of the provisions of this Subsection (q), the Association may bring a legal action to enjoin the improper conduct.

(9) Effective Date of Lease Conditions. These leasing restrictions shall not apply to any Unit of an Owner who, at the time of recording this provision, is renting or leasing said Unit for exclusive occupancy by one or more non-owner tenants, so long as such Unit continues to be owned by the same Owner and is not occupied as a residence by such Owner or a member of the Owner's family. In order for this exception to apply, said Owner must deliver a copy of the executed lease, which is in effect at the time to the Board within thirty (30) days after the recording of this document and shall furnish a copy of any subsequent lease within thirty (30) days after its execution. Such copy may have the rental amount deleted. Failure of such an Owner to timely deliver a copy of any such lease to the Board shall result in said Owner's Unit being subject to these restrictions. However, in this latter circumstance, these restrictions shall not apply to any lease executed prior to the effective date of these restrictions or to any renewals thereof provided in such lease so long as the occupants remain the same. Any Unit which falls under the exception of this paragraph shall, nevertheless, be counted as one of the fifteen (15) maximum Units that may be rented at any given time even though such maximum does not apply to restrict such excepted Unit.

(10) Institutional Mortgages. The provisions of this Subsection (q) shall not apply to any institutional mortgage holder of any Unit which comes into

possession of the mortgage holder by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement or deed in lieu of foreclosure.

The Knoll Condominium Association, Inc.

By: *Jeff Barnd*
Jeff Barnd, President

ATTEST:

Sandy Pagano
Sandy Pagano (Secretary)

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

I, Jeff Price, a Notary Public in and for the County and State aforesaid, do hereby certify that The Knoll Condominium Association, Inc., by and through its President, Jeff Barnd and its Secretary, Sandy Pagano, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation for the uses and purposes therein set forth

GIVEN under my hand and Notarial Seal this 17TH day of November 2009.

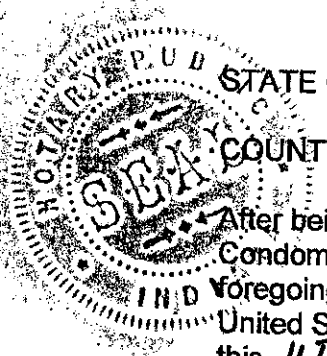
I reside in Marion
County, Indiana

Jeff Price
Notary Public (Signed)

Jeffrey L. Price
Notary Public (Printed)

My Commission Expires:
9/20/16

AFFIDAVIT OF MAILING
NOTICE TO FIRST MORTGAGEES



STATE OF INDIANA)
) SS:
COUNTY OF MARION)

After being first duly sworn under oath, Sandy Pagano, the Secretary of The Knoll Condominium Association, Inc., hereby deposes and says she has mailed a copy of the foregoing First Amendment to the Amended and Restated Declaration by certified United States mail to all holders of first mortgages of record entitled to such notice on this 16TH day of November, 2009.

Sandy Pagano
Secretary (Signed)

SANDY PAGANO
Secretary (Printed)

Before me, a Notary Public for the above County and State, personally appeared Sandy Pagano, the Secretary of The Knoll Condominium Association, Inc., and after being duly sworn under oath, acknowledged the execution of the foregoing Affidavit of Mailing Notice to First Mortgagees and stated the statements in said Affidavit are true.

Witness my hand and Notarial Seal this 17TH day of November, 2009.

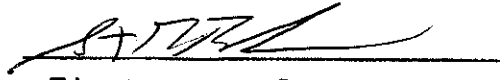
I reside in Marion
County, Indiana

Jeffrey L. Price
Notary Public (Signed)

My Commission Expires:
9/26/14

Jeffrey L. Price
Notary Public (Printed)

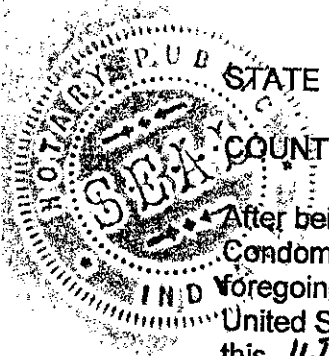
I affirm under the penalties for perjury that I have taken reasonable care to redact each Social Security Number in this document as required by law.


Stephen R. Buschmann

* This document prepared by Stephen R. Buschmann, Thrasher Buschmann Griffith & Voelkel, P. C., 151 N. Delaware Street, Suite 1900 Indianapolis, Indiana 46204.

Return copies of this document to: Stephen R. Buschmann, Thrasher Buschmann Griffith & Voelkel, P. C., 151 N. Delaware Street, Suite 1900 Indianapolis, Indiana 46204.

AFFIDAVIT OF MAILING
NOTICE TO FIRST MORTGAGEES



STATE OF INDIANA)
) SS:
COUNTY OF MARION)

After being first duly sworn under oath, Sandy Pagano, the Secretary of The Knoll Condominium Association, Inc., hereby deposes and says she has mailed a copy of the foregoing First Amendment to the Amended and Restated Declaration by certified United States mail to all holders of first mortgages of record entitled to such notice on this 16TH day of November, 2009.

Sandy Pagano
Secretary (Signed)

SANDY PAGANO
Secretary (Printed)

Before me, a Notary Public for the above County and State, personally appeared Sandy Pagano, the Secretary of The Knoll Condominium Association, Inc., and after being duly sworn under oath, acknowledged the execution of the foregoing Affidavit of Mailing Notice to First Mortgagees and stated the statements in said Affidavit are true.

Witness my hand and Notarial Seal this 17TH day of November, 2009.


I reside in Marion
County, Indiana

Jeffrey L. Price
Notary Public (Signed)

My Commission Expires:
9/30/14

Jeffrey L. Price
Notary Public (Printed)

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


Stephen R. Buschmann

* This document prepared by Stephen R. Buschmann, Thrasher Buschmann Griffith & Voelkel, P. C., 151 N. Delaware Street, Suite 1900 Indianapolis, Indiana 46204.

Return copies of this document to: Stephen R. Buschmann, Thrasher Buschmann Griffith & Voelkel, P. C., 151 N. Delaware Street, Suite 1900 Indianapolis, Indiana 46204.