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**DECLARATION OF HORIZONTAL
PROPERTY OWNERSHIP**

**Roxbury Arms
Horizontal Property Regime**

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TABLE OF CONTENTS

	<u>Page</u>
1. Definitions	2
2. Declaration	5
3. Description of Buildings	5
4. Identification of Apartment	6
5. Description of Apartments	9
6. Common Area and Facilities	11
7. Limited Common Areas and Facilities	12
8. Ownership of Common Areas	13
9. Encroachments and Easements for Common Areas	13
10. Real Estate Taxes	14
11. Utilities	14
12. Association of Owners	14
13. Maintenance, Repairs and Replacements	15
14. Alterations, Additions and Improvements	16
15. Insurance	16
16. Casualty and Restoration	17
17. Covenants and Restrictions	19
18. Sale or Lease of Apartment by Owner	19
19. Amendment of Declaration	24
20. Acceptance and Ratification	26
21. Negligence	26
22. Costs and Attorneys' Fees	27

DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP

113.72 feet
Roxbury Arms
Horizontal Property Regime

This Declaration, made this 2nd day of July 1971, by Brendonridge Realty Corporation, a corporation organized and existing under the laws of the State of Indiana (the "Declarant"),

WITNESSETH: 300.00

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to the following described real estate, located in Marion County, Indiana, to-wit:

Part of the West Half of the Northeast Quarter of Section 10, Township 16 North, Range 4 East in Marion County, Indiana, more particularly described as follows:

Beginning on the West line of the said Half Quarter Section, North 00 degrees 05 minutes 58 seconds, East, 1415.00 feet from the Southwest corner of the said Half Quarter Section (said place of beginning is the angle point in the rear lot line of Lot 174 in "Brendonridge Fifth Section" the plat of which is recorded in Plat Book 32, pages 383 and 384 in the Office of the Recorder of Marion County, Indiana); thence South 41 degrees 00 minutes 00 seconds East along the Northeast line of Lots 174, 173 and 172 in the said "Brendonridge Fifth Section", and along the Northeast line of Lot 168 in "Brendonridge Sixth Section" the plat of which is recorded in Plat Book 32, pages 407 and 408 in the said Office of the Recorder, 315.56 feet; thence South 90 degrees 00 minutes 00 seconds East along the North line of the said Lot 168 and along the North line of Lot 133 in "Brendonridge - Fourth Section" the plat of which is recorded in Plat Book 32 pages 321 and 322 in the said office of the Recorder, 209.33 feet; thence

North 60 degrees 55 minutes 00 seconds East along the Northwesterly line of Lots 133 and 132 in the said "Brendonridge - Fourth Section", 133.72 feet; thence North 90 degrees 00 minutes 00 seconds East along the North line of Lots 132 and 130 in the said "Brendonridge - Fourth Section", 368.14 feet; thence North 00 degrees 00 minutes 00 seconds along the West line of Roxbury Road in the said "Brendonridge Fourth Section" and in "Brendonridge Third Section" the plat of which is recorded in Plat Book 32, pages 291 and 292 in the said Office of the Recorder, 282.74 feet; thence North 70 degrees 00 minutes 00 seconds West along the Southwesterly line of Lot 113 in the said "Brendonridge - Third Section", 162.75 feet; thence North 42 degrees 00 minutes 00 seconds West along the Southwesterly line of the said Lot 113 a distance of 90.00 feet; thence North 90 degrees 00 minutes 00 seconds West along the South line of Lots 107, 106 and 104 in the said "Brendonridge Third Section" and along the South line of Lot 177 in the said "Brendonridge - Fifth Section", 500.00 feet; thence South 52 degrees 00 minutes 00 seconds West along the Southeast line of Lots 176 and 175 in the said "Brendonridge Fifth Section", 238.63 feet; thence South 00 degrees 00 minutes 58 seconds West along the East line of Lots 175 and 174 in the said "Brendonridge Fifth Section", 85.22 feet to the place of beginning, containing 7.832 acres, more or less.

B. Declarant, by execution of this Declaration, hereby creates a Horizontal Property Regime upon the Tract, subject to the provisions of the Horizontal Property Act of the State of Indiana and 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 Horizontal Property Act of the State of Indiana, Acts 1963, Chapter 349, Sections 1

through 31, as amended. The Act is incorporated herein by reference.

(b) "Apartment" means one of the forty-two (42) living units constituting the Roxbury Arms, each individual unit being more particularly described and identified on the Plans and in paragraphs 4 and 5 of this Declaration.

(c) "Association" means the unincorporated association of Co-owners of the Roxbury Arms, more particularly described in paragraph 12.

(d) "Board of Managers" means the governing body of the Association elected by the Co-owners in accordance with the By-Laws. The term "Board of Managers", as used herein and in the By-Laws, shall be synonymous with the term "Board of Directors" as used in the Act.

(e) "Building" means one of the five (5) buildings on the Tract in which Apartments are located. The Buildings are more particularly described and identified in the Plans and in paragraph 3 of this Declaration.

(f) "By-Laws" means the By-Laws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. A true copy of the By-Laws is attached to this Declaration and incorporated herein by reference.

(g) "Common Areas" means the common areas and facilities appurtenant to the Property as defined in paragraph 6 of this Declaration.

(h) "Common Expenses" means expenses of administration of the Association and expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Limited Areas and all sums lawfully assessed against the Owners by the Association or as declared by the Act, this Declaration or the By-Laws.

(i) "Co-owners" means the Owners of all the Apartments.

(j) "Limited Areas" means the limited common areas and facilities as defined in paragraph 7 of this Declaration.

(k) "Mortgagee" means the holder of a first mortgage lien on an Apartment.

(l) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who owns the fee simple title to an Apartment.

(m) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas and Limited Areas appertaining to each Apartment as specifically expressed in paragraph 4 of this Declaration.

(n) "Percentage Vote" means that percentage of the total vote accruing to all of the Apartments which is appurtenant to each particular Apartment and accrues to the Owner thereof. The Percentage Vote to which each Owner shall be entitled on any matter upon which the Co-owners are entitled to vote shall be the same percentage

as the Percentage Interest appurtenant to such Owner's Apartment.

(o) "Plans" means the floor and building plans of the Buildings and Apartments prepared by Lewis & Shimer Architects, Inc., certified by Thomas S. Shimer, Jr., a registered architect, under date of August 1, 1968, last revised February 19, 1971, and a site plan and elevation survey of the Tract and Buildings prepared by Paul I. Cripe, Inc., certified by Paul I. Cripe, a registered land surveyor and engineer, under date of June 8, 1971, all of which are incorporated herein by reference.

(p) "Property" means the Tract and appurtenant easements, the Apartments, the Buildings, garages, improvements, and property of every kind and nature whatsoever, real, personal or mixed, located upon the Tract and used in connection with the operation, use and enjoyment of the Roxbury Arms.

(q) "Roxbury Arms" means the name by which the Property and Horizontal Property Regime shall be known. The address of Roxbury Arms is 5400 Roxbury Road, Indianapolis, Indiana.

(r) "Tract" means the real estate described in paragraph A above.

2. Declaration. Declarant hereby expressly declares that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Act.

3. Description of Buildings. There are five (5) Buildings containing Apartments on the Tract, as shown on the Plans. The Buildings are identified and referred to in the Plans and in this Declaration as Buildings A, B, C, D and E. Each Building has two (2) stories and a basement and is constructed of brick and frame. All are built in accordance with the Plans.

The five (5) Buildings contain a total of forty-two (42) separate Apartments. These consist of the following:

(a) Six townhouse Apartments, each containing private entries, three bedrooms, two and one-half baths, and a half basement ("Townhouse Apartments").

(b) Eight Apartments, each containing two bedrooms and two baths ("Two-bedroom Apartments").

(c) Twelve Apartments, each containing two bedrooms, one den and two baths ("Two-bedroom and Den Apartments").

(d) Sixteen Apartments, each containing three bedrooms and two baths ("Three-bedroom Apartments").

Each Townhouse Apartment and each other Apartment located on the first floor of a Building has a terrace patio.

4. Identification of Apartment. Each Apartment is identified by letter and number on the Plans, the letter referring to the Building in which the Apartment is located and the number referring to the individual Apartment within the Building. The following is a list identifying each Apartment showing the Percentage Interest and Percentage Vote appurtenant to each Apartment:

<u>Building Letter</u>	<u>Apartment Number</u>	<u>Type</u>	<u>Percentage Interest and Percentage Vote</u>
A	1	Townhouse Apartment	2.35%
A	2	Two-bedroom and Den Apartment	2.35%
A	3	Two-bedroom Apartment	1.75%
A	4	Two-bedroom Apartment	1.75%
A	5	Two-bedroom and Den Apartment	2.35%
A	6	Two-bedroom and Den Apartment	2.28%
A	7	Two-bedroom Apartment	1.64%
A	8	Two-bedroom Apartment	1.64%
A	9	Two-bedroom and Den Apartment	2.28%
A	10	Townhouse Apartment	2.35%
B	1	Townhouse Apartment	2.35%
B	2	Two-bedroom and Den Apartment	2.35%
B	3	Two-bedroom Apartment	1.75%
B	4	Two-bedroom Apartment	1.75%
B	5	Two-bedroom and Den Apartment	2.35%

<u>Building Letter</u>	<u>Apartment Number</u>	<u>Type</u>	<u>Percentage Interest and Percentage Vote</u>
A	1	Townhouse Apartment	2.35%
A	2	Two-bedroom and Den Apartment	2.35%
A	3	Two-bedroom Apartment	1.75%
A	4	Two-bedroom Apartment	1.75%
A	5	Two-bedroom and Den Apartment	2.35%
A	6	Two-bedroom and Den Apartment	2.28%
A	7	Two-bedroom Apartment	1.64%
A	8	Two-bedroom Apartment	1.64%
A	9	Two-bedroom and Den Apartment	2.28%
A	10	Townhouse Apartment	2.35%
B	1	Townhouse Apartment	2.35%
B	2	Two-bedroom and Den Apartment	2.35%
B	3	Two-bedroom Apartment	1.75%
B	4	Two-bedroom Apartment	1.75%
B	5	Two-bedroom and Den Apartment	2.35%

		Den Apartment	2.28%
B	7	Two-bedroom Apartment	1.64%
B	8	Two-bedroom Apartment	1.64%
B	9	Two-bedroom Den Apartment	2.28%
B	10	Townhouse Apartment	2.35%
C	1	Townhouse Apartment	2.35%
C	2	Two-bedroom and Den Apartment	2.35%
C	3	Two-bedroom and Den Apartment	2.35%
C	4	Two-bedroom and Den Apartment	2.28%
C	5	Two-bedroom and Den Apartment	2.28%
C	6	Townhouse Apartment	2.35%
D	1	Three-bedroom Apartment	2.88%
D	2	Three-bedroom Apartment	2.88%
D	3	Three-bedroom Apartment	2.88%
D	4	Three-bedroom Apartment	2.88%
D	5	Three-bedroom Apartment	2.69%

D	8	Three-bedroom Apartment	2.69%
E	1	Three-bedroom Apartment	2.88%
E	2	Three-bedroom Apartment	2.88%
E	3	Three-bedroom Apartment	2.88%
E	4	Three-bedroom Apartment	2.88%
E	5	Three-bedroom Apartment	2.69%
E	6	Three-bedroom Apartment	2.69%
E	7	Three-bedroom Apartment	2.69%
E	8	Three-bedroom Apartment	2.69%

The legal description for each Apartment shall consist first of the identifying letter of the Building in which the Apartment is located and second the number designation of the particular Apartment in that Building.

5. Description of Apartments.

(a) Appurtenances. Each Apartment shall consist of all space within the boundaries thereof as hereinafter defined and all portions of the Building situated within such boundaries, including but not limited to all fixtures, facilities, utilities, equipment, appliances,

apartment therein and same are attached, but excluding therefrom that designed or intended for the use, benefit, support, safety or enjoyment of any other Apartment or which may be necessary for the safety, support, maintenance, use, and operation of any of the Buildings or which are normally designed for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of an Apartment shall constitute a part of such Apartment, whether or not the same are located within or partly within the boundaries of such Apartment. The half basement under each Townhouse Apartment is considered a part of and for the exclusive use of such Townhouse Apartment. Also, the interior surface of all doors and windows (excluding frames), in the perimeter walls of an Apartment, whether or not located within or partly within the boundaries of an Apartment, and all interior walls within the boundaries of an Apartment, are considered part of the Apartment.

(b) Boundaries. The boundaries of each Apartment shall be as shown on the Plans without regard to the existing construction measured between the interior unfinished surface of the floors, ceilings and perimeter walls of each Apartment. In the event any horizontal or

ceiling surface of the Apartment because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Apartment shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Apartment in and to such space lying outside of the actual boundary line of the Apartment, but within the appropriate wall, floor or ceiling surfaces of the Apartment.

6. Common Area and Facilities. Common Areas means and includes (1) the Tract, (2) the foundations, columns, girders, beams, supports and roofs of the Buildings, (3) the yards, gardens, driveways, sidewalks, parking areas and recreational areas, (4) central electricity, gas, water, air conditioning and sanitary sewer mains serving the Buildings, (5) exterior lighting fixtures and electrical service lighting the exterior of the Buildings, (6) master television antenna system with connecting outlets to each Apartment, (7) pipes, ducts, electrical wiring and conduits and public utilities lines, (8) floors, ceilings and perimeter walls, except the interior surface thereof (except interior

Areas.

7. Limited Common Areas and Facilities. Limited Areas and those Apartments to which use thereof is limited are as follows:

(a) The halls, corridors, lobbies, stairs, stairways, entrances, and exits of each Building (except the interior of Townhouse Apartments) shall be limited to the use of the Apartments of such Building.

(b) There are 42 garage units under roof. Each garage unit shall be limited for the exclusive use of a particular Apartment.

(c) The basement in each Building is limited to the use of the Apartments in the particular Building; the storage bins which are located in the basements are limited to the use of each Apartment as designated; provided, however, that the basements under each Townhouse Apartment constitute part of such Townhouse Apartment and are not part of the Limited Area or Common Area.

(d) The water softeners in each Building are limited to the use of the Apartments in the particular Building. In any Apartment where a water softener is located within the boundaries of such Apartment, such water softener shall be deemed to be a Limited Area, limited to the use of

be limited to the exclusive use of the first floor Apartment or Townhouse Apartment to which they are attached.

(f) The exterior surface of doors and windows in the perimeter walls in each Apartment shall be limited to the exclusive use of the Apartment to which they appertain.

8. Ownership of Common Areas. The Percentage Interest appertaining to each Apartment is set forth in paragraph 4 of this Declaration. This percentage shall for all purposes be deemed to be the percentage of value of each separate Apartment and appurtenances thereto in relation to the Property as a whole. The Percentage Interest appertaining to each separate Apartment in the Common Areas and Limited Areas shall remain constant and shall not be altered without the unanimous consent of all the Co-owners and compliance with all requirements of the Act.

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

9. Encroachments and Easements for Common Areas. If, by reason of the location, construction settling, or

run to the Co-owners and the Association for the maintenance, use and enjoyment of such Common Area or Limited Area.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Apartments and serving his Apartment.

10. Real Estate Taxes. Real estate taxes are to be separately taxed to each Apartment as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Apartment, but are assessed and taxed on the Property as a whole, then each Owner shall pay his proportionate share thereof in accordance with his 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. In order to provide for the maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Act, there is hereby created an association of the Co-owners of the Apartments in Roxbury Arms to be

transferred to the new owner.

The Association shall elect a Board of Managers annually in accordance with and as prescribed by the By-Laws. The Co-owners shall be entitled to cast their Percentage Vote for the election of the Board of Managers.

The Board of Managers shall be the governing body of the Association, representing all of the Co-owners in providing for the management, maintenance, repair, replacement and upkeep of the Property.

13. Maintenance, Repairs and Replacements. Each Owner shall, at his expense, be responsible for the maintenance, repairs, decoration and replacement within his own Apartment, except as may otherwise be provided in the By-Laws. Each owner shall repair any defect occurring in his Apartment which, if not repaired, might adversely affect any Apartment, Common Area or Limited Area. Maintenance, repairs, replacements and upkeep of the Common Areas and Limited Areas shall be furnished by the Association as part of the Common Expenses.

The Board of Managers shall adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas.

The Board of Managers or their designated agent shall have the right at reasonable times and upon reasonable notice to enter any Apartment in cases of emergency in which case no

14. Alterations, Additions and Improvements. No

Owner shall make any alterations or additions to the Common Areas or Limited Areas without the prior written approval of the Board of Managers, nor shall any Owner make any alteration to his respective Apartment and within the boundaries thereof which would affect the safety or structural integrity of the Building in which the Apartment is located.

15. Insurance. The Association, acting through

its Board of Managers, shall obtain fire and extended coverage insurance insuring the Property in an amount equal to the full insurable value thereof. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Owner's Mortgagee. The proceeds shall be payable to the Association or the Board of Managers, who shall hold such proceeds as trustee for the individual Owners and Mortgagees. The interest of each Owner and his Mortgagee in such proceeds shall be equal to the Owner's Percentage Interest.

The Association shall also obtain comprehensive public liability insurance in such limits as the Board of Managers shall deem appropriate, together with Workmen's Compensation insurance and other liability insurance.

agent or company acting on behalf of the Association.

The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Each Owner shall have the right to purchase any additional insurance he may deem necessary, and each Owner shall be solely responsible for insurance on the contents of his own Apartment, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and his personal property stored elsewhere on the Property.

16. Casualty and Restoration. In the event of damage or destruction of the Property by fire or other casualty, the following provisions shall be applicable:

(a) Partial Destruction. In the event that less than two-thirds of the Apartments are destroyed by the occurrence of fire or other casualty, then the Association shall cause the Property to be promptly repaired and restored. The proceeds of the insurance carried by the Association shall be applied to the cost of such restoration. If the insurance proceeds are not adequate to cover the cost of reconstruction, or in the event there are no proceeds, the cost for restoring the damage shall be paid by all of the Owners of the Apartments directly affected by the damage in proportion to the value that each affected

percentage interest. An Apartment shall be deemed to be directly affected if, and on if, such Apartment is located within the Building in which the fire or other casualty occurs. If any Owner or Owners, refuses or fails to make the required payments, the other Owners shall (on the Association, if such other Owners fail) complete the restoration and pay the cost thereof, and the costs attributable to the Owner or Owners who refuse or fail to make such payments at the time required by the Board of Managers shall become a lien on such defaulting Owners' Apartments and may be foreclosed in the same manner as provided for the lien for Common Expenses.

(b) Restoration in the Event of Two-Thirds Destruction. In the event that more than two-thirds of the Apartments are destroyed by fire or other casualty, then restoration of the Apartments must be approved within one hundred twenty (120) days from the date of damage or destruction by no less than fifty-one per cent (51%) in the aggregate of the total Percentage Vote. If such approval is not obtained, the Property shall be deemed owned in common by all of the Owners and the provisions of Section 21 of the Act shall apply.

(c) Restoration, for purposes of subparagraphs (a) and (b) above, shall mean construction or rebuilding of the Apartments to the same condition as they existed immediately prior to the fire or other casualty.

Apartments are set forth in Article VI of the By-Laws.
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, the Co-owners or by the Association. Present or future Owners or the Association 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.

18. Sale or Lease of Apartment by Owner. For the purpose of maintaining the congenial and residential character of Roxbury Arms, and for the protection of the Co-owners with regard to financially responsible residents, sale or lease of an Apartment by an Owner other than Declarant shall be subject to the following conditions and restrictions:

(a) Lease. It is in the best interest of all the Owners that those persons residing in Roxbury Arms have similar proprietary interests in their Apartments and be Owners. Accordingly, no Owner shall lease his Apartment or enter into any other rental or letting arrangement for his Apartment without the prior written consent of the

to the Board of Managers which application shall state the reasons why the applicant wishes to lease the Apartment, the name of the proposed tenant, and financial references of the proposed tenant. Within ten (10) days following the receipt of the application, the Board of Managers shall issue its written approval or disapproval to the Owner. In the event the Board fails to issue written approval or disapproval within such period, the application shall for all purposes be deemed approved.

(b) Sale. The Association shall have the right of first refusal to purchase any Apartment which an Owner wishes to sell. Any Owner wishing to sell who receives a bona fide offer to purchase shall promptly give written notice to the Board of Managers of his desire to sell, together with the name and address of the intended purchaser, and the terms and conditions of such offer. Within fourteen (14) days after the receipt of such notice, the Board of Managers shall determine if it should recommend exercise of the right to purchase or waive the right to purchase. In the event the Board of Managers elects to waive the right to purchase, a certificate in recordable form, executed by the President or Secretary of the Association, certifying that the Association, through its Board

convey his Apartment to that person and upon the same terms and conditions as set forth in the Owner's notice to the Board of Managers. In the event the sale is not completed within ninety (90) days following the date of such certification, the Apartment shall again become subject to the Association's right of first refusal as herein provided.

In the event the Board of Managers deem it advisable to exercise the Association's right to purchase the Apartment, then it shall give written notice thereof to the Owner and shall, within twenty-one (21) days following the receipt of such notice from the Owner wishing to sell, call a meeting of all the Co-owners for the purpose of voting upon the proposed purchase. If the recommendation of the Board of Managers to purchase such Apartment is approved by no less than seventy-five per cent (75%) in the aggregate of the total Percentage Vote, then the Association shall proceed to purchase the offered Apartment from the offering Owner upon the same terms and conditions contained in the offer. The purchase price for the Apartment shall be considered to be a Common Expense and borne by the remaining Co-owners; provided, however, that the Owner who has made the offer to sell his Apartment shall not be assessed for or required to pay his

serving as Board of Managers, as trustees for the benefit of the Co-owners, whichever the Board of Managers, in their sole discretion, deem appropriate.

In the event that the proposed purchase is not approved by the required percentage of the Co-owners as set out above, then the Board of Managers, through the President or Secretary of the Association, shall promptly deliver a certificate in recordable form to the offering Owner who may proceed to sell his Apartment under the same terms and conditions as if the Board of Managers had not elected to recommend the exercise of the right of the Association to purchase.

If, for any reason, either the Board of Managers or the Co-owners shall fail to act on the Association's right of first refusal within the time periods herein provided, then the Association's right of first refusal shall be deemed to have been effectively waived.

If the Association shall purchase an Apartment in accordance with this paragraph 18, the Board of Managers shall have the authority at anytime thereafter to sell or lease the Apartment upon the terms and conditions as the Board of Managers shall, in their sole discretion, deem desirable, without application to or approval of the

elect to lease such Apartment, then the lease rental payments shall be applied against the Common Expenses.

The above provisions with respect to the Association's right to approve a lease of an Apartment or the right to purchase an Apartment shall remain in full force and effect until the Property is removed from the provisions of the Act or until the expiration of twenty (20) years from the date of this Declaration, whichever first occurs.

Any sale or attempted sale, or any lease or attempted lease by an Owner of his Apartment, except in accordance with the provisions of this paragraph 18, shall be void, provided, however, that any certificate waiving the Association's right to purchase executed by the Association and delivered to an Owner as provided by this paragraph may be relied upon by any purchaser or Mortgagee and shall, with respect to such purchaser or Mortgagee, be absolutely binding upon the Association and the Co-owners unless such purchaser or Mortgagee has actual knowledge that the certificate was procured fraudulently or by reason of a misrepresentation of a material fact.

(c) Limitations to Mortgagee. With respect to a Mortgagee that is a bank, life insurance company or savings and loan association, the provisions of subparagraphs

conveyance in lieu thereof or to the conveyance of an Apartment to any person at a public sale in the manner provided by law with respect to mortgage foreclosures. The provisions of subparagraph (b) shall be applicable to and binding upon such Mortgagee or other person so obtaining title to an Apartment with respect to any subsequent transfer or conveyance of the Apartment.

(ii) The provisions of subparagraph (a) shall not be applicable to such Mortgagee if such Mortgagee acquires possession of an Apartment during the period while a foreclosure proceeding is pending or to such Mortgagee who obtains title to an Apartment as a result of foreclosure of its mortgage or a conveyance in lieu thereof. The provisions of subparagraph (a) shall be binding upon any other person obtaining title to the Apartment from such Mortgagee or at any foreclosure or other judicial sale.

The provisions of this subparagraph (c) may not be amended without the consent of all of such Mortgagees.

19. Amendment of Declaration. Amendments to this Declaration shall be proposed and adopted in the following manner:

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

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

this Declaration must be approved by a vote of not less than seventy-five per cent (75%) in the aggregate of the Percentage Vote. In the event any Apartment 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 Managers in accordance with the provisions of the By-Laws.

(e) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the Percentage Interest with respect to any Apartment or the applicable share of an Owner's liability for the Common Expenses, without the approval of one hundred per cent (100%) of the Co-owners, or (2) the provisions of paragraph 16 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Managers in accordance with the provisions of the By-Laws.

(f) Recording: Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

future Owners, Mortgagees, tenants and occupants of the Apartments shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Managers as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Apartment shall constitute an agreement that the provisions of this Declaration, the Act, the By-Laws and rules and regulations as each may be amended 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 at anytime any interest or estate in an Apartment 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 an Apartment or Apartments or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the rules and regulations applicable thereto as each may be amended from time to time.

21. 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 the

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 his use, misuse, occupancy or abandonment of his Apartment or its appurtenances or of the Common Areas or Limited Areas.

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

23. 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 Apartment.

24. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration or the attached By-Laws.

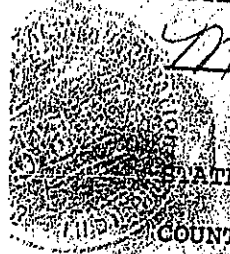
25. Floor Plans. The plans

all of the Apartments 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 Horizontal Property Plan File No. Special, as of July 1, 1971, a Instrument Number 71-33066.

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

BRENDONRIDGE REALTY CORPORATION
Robert E. Walker

ATTEST:
Marjorie W. Reiney



STATE OF INDIANA)
COUNTY OF MARION) SS:

Before me, a Notary Public in and for said County and State, personally appeared Robert E. Walker and Marjorie W. Reiney, the President and Secretary, respectively, of Brendonridge Realty Corporation, who acknowledged the execution of the above and foregoing Declaration of Horizontal Property Ownership for and on behalf of said corporation.

WITNESS my hand and Notarial Seal this 2nd day July, 1971.



Janet Charrell
Notary Public

commission expires: