

CONDOMINIUM DECLARATION OF
GREENLEAF CONDOMINIUM
ELKHART, INDIANA

WHEREAS, McTol, Inc., an Indiana corporation (hereinafter referred to as "Grantor") owns certain real property herein described; and

WHEREAS, said Grantor is the sole owner in fee simple title of said property consisting of a forty-eight (48) unit multi-family building known as Greenleaf Condominium, said project having been constructed in accordance with plans and specifications prepared by Scholz Homes, Inc., Toledo, Ohio; and

WHEREAS, said Grantor hereby establishes by this declaration a plan for the individual ownership of the real property estates consisting of the area or space contained in each of the apartment units in said multi-family building, and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining real property which is hereinafter defined and referred to herein as the "common areas and facilities."

NOW THEREFORE, said Grantor, the fee owner of the following described real property, to wit:

Lot Number Seven (7) as the said lot is known and designated on the recorded Plat of GREENLEAF PARK, an Addition to the City of Elkhart; said Plat being recorded in Plat Book 1, pages 154 and 155 in the Office of the Recorder of Elkhart County, Indiana. EXCEPTING therefrom the following: Beginning at the southeast corner of Lot Number Six (6) in said addition and running thence southeastwardly along the southwestern line of Greenleaf Boulevard five (5) feet; thence southwestwardly parallel with the southeastern line of said Lot Six (6) and said southeastern line extended, to the St. Joseph River; thence northwestwardly, along said St. Joseph River to the southeastern line of said Lot Six (6) aforesaid, extended; thence Northeastwardly along the extended Southeastern line of said Lot Six (6) and the Southeastern line of said Lot Six (6) to the Place of Beginning.

ALSO: Lots Number Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12) and Thirteen (13), EXCEPT the East twenty-five (25) feet by parallel lines of said Lot Thirteen (13) as the said Lots are known and designated on the recorded Plat of GREENLEAF PARK, an Addition to the City of Elkhart; said Plat being recorded in Plat Book 1, pages 154 and 155 in the Office of the Recorder of Elkhart County, Indiana.

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ELKHART COUNTY RECORDER

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ALSO: A parcel of land located between the meander line as shown on the Plat of GREENLEAF PARK as recorded in Plat Book 1, pages 154 and 155 in the Office of the Recorder of Elkhart County, Indiana, and the top of the existing banks and the face of the existing seawall on the northerly side of the St. Joseph River.

The above combined parcels are more particularly described as follows: Commencing at the southeast corner of Lot Six (6) of Greenleaf Park as recorded; thence southeasterly 5.00 feet along the southwesterly right-of-way line of Greenleaf Boulevard, said right-of-way line being an arc to the left having a radius of 818.51 feet and subtended by a long chord having a bearing of south 33° 34' 30" east and a length of 5.00 feet to an iron pipe found on this survey, said iron pipe being at the point of beginning of this description; thence southeasterly 520.00 feet along the southwesterly right-of-way line of Greenleaf Boulevard, said line being an arc to the left having a radius of 818.51 feet and subtended by a long chord having a bearing of south 41° 57' 00" east and a length of 511.30 feet to an iron pipe set on this survey; thence south 28° 06' 00" west 188.93 feet parallel to and 25 feet northwesterly of the southeasterly line of Lot 13 of GREENLEAF PARK as recorded to an iron pipe set on this survey at the top of the existing bank of the St. Joseph River; thence northwesterly along the top of the existing banks and the face of the existing seawall the following twelve (12) courses; north 51° 15' 07" west 71.58 feet; north 49° 27' 57" west, 36.64 feet; north 39° 17' 52" west 25.83 feet; north 40° 21' 31" west 82.33 feet; north 39° 58' 12" west 41.02 feet; north 39° 47' 57" west 68.71 feet; north 39° 38' 44" west 53.38 feet; north 42° 44' 47" west 40.26 feet; north 44° 42' 02" west 46.86 feet; north 46° 33' 34" west 45.49 feet; north 57° 23' 25" west 56.07 feet; north 07° 39' 51" west 79.09 feet to an iron pipe set on this survey at a point that is south 66° 36' 00" west 170.00 feet from the point of beginning of this description; thence north 66° 36' 00" east 170.00 feet along a line that is 5 feet southeasterly of and parallel to the southeasterly line of Lot Six (6) of GREENLEAF PARK as recorded to the point of beginning.

hereby makes the following declaration as to divisions, covenants, restrictions, limitations, conditions, and uses to which the above described real property and improvements thereon, consisting of a forty-eight (48) unit multi-family building and appurtenances, may be put, hereby specifying that said declaration shall constitute covenants to run with the land and shall be binding on said Grantor, its successors and assigns, and all subsequent owners of all or any part of said real property and improvements, together with their grantees, successors, heirs, executors, administrators, devisees or assigns:

A. Creation of Separate Freehold Estates. Said Grantor, in order to establish a plan of condominium ownership for the abovedescribed property and improvements, hereby covenants and

agrees that it hereby divides said real property into the following separate freehold estates:

1. Condominium Units. The forty-eight (48) separately designated and legally described freehold estates consisting of the spaces or areas, being the area or space contained in the perimeter walls of each of the forty-eight (48) units in the building constructed on said property, said spaces being defined, and referred to herein, as "condominium units."

2. Common Areas and Facilities. A freehold estate consisting of the remaining portion of the real property is described and referred to as the "common areas and facilities," which definition includes the building and the property upon which it is located, and specifically includes, but is not limited to, the land, roof, main walls, slabs, parking garage, sea walls, elevator, elevator maintenance room, master television antenna system, hallways, stairways, central lobby and entry-way, laundry room, community and commercial facilities, storage areas, garbage chutes, trees, pavement, parking spaces, pipes, wires, conduits, and ducts, or other public utility lines.

B. Ownership of Common Elements. For the purpose of this declaration, the ownership of each condominium unit shall include the respective undivided interest in the common areas and facilities specified and established in paragraph "D" hereof, and each condominium unit together with the undivided interest is defined and hereinafter referred to as condominium unit.

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 other unit and serving his unit.

C. Description of the Building and Condominium Units.

1. The condominium has one building which contains five levels. The first level contains the parking garage, the second, third, and fourth level, which are designated as floors one, two, and three contain residential units. The fifth level contains storage areas for the individual units. There are sixteen units on each floor and are identified by three digit numbers, the first digit represents the floor, and the last two digits running from 01 to 16 represent the unit's location on the respective floor.

2. The forty-eight (48) individual units hereby established and which shall be individually conveyed are described as follows:

a) Six (6) three bedroom, two bath condominium units with fireplace containing approximately 1717 square feet. These units are designated 101, 110, 201, 210, 301 and 310

b) Six (6) three bedroom, two bath condominium units containing approximately 1509 square feet. These units are designated 102, 109, 202, 209, 302, and 309.

c) Six (6) three bedroom two bath condominium units containing approximately 1461 square feet. These units are designated 103, 108, 203, 208, 303, and 308.

d) Six (6) two bedroom, two bath condominium units containing approximately 1151 square feet. These units are designated 104, 107, 204, 207, 304, and 307.

e) Six (6) two bedroom, two bath condominium units containing approximately 1227 square feet. These units are designated 105, 106, 205, 206, 305, and 306.

f) Six (6) two bedroom, two bath condominium units containing approximately 1291 square feet. These units are designated 111, 116, 211, 216, 311, and 316.

g) Six (6) two bedroom, two bath condominium units containing approximately 1222 square feet. These units are designated 112, 115, 212, 215, 312, and 315.

h) Six (6) two bedroom two bath condominium units containing approximately 1300 square feet. These units are designated 113, 114, 213, 214, 313, and 314.

Each unit contains a kitchen, laundry area, living room, dining area, and two baths. The main door to each unit is located on a hallway to provide access to the common elements and ingress and egress to the property and building.

The unit locations and dimensions are more particularly described in Exhibit "A".

D. Percentage Interest on Common Areas and Share of Common Expenses. The undivided interest in the common areas and facilities hereby established and which shall be conveyed with each respective condominium unit which is also the proportional voting right of each unit owner and the unit owner's share of common expenses and common profits is as follows:

Table of Unit Shares

<u>Unit Number</u>	<u>Percentage Interest</u>
101	2.6307
102	2.3120
103	2.2385
104	1.7635
105	1.8799
106	1.8799
107	1.7635
108	2.2385
109	2.3120
110	2.6307
111	1.9780
112	1.8723
113	1.9918
114	1.9918
115	1.8723
116	1.9780
201	2.6307
202	2.3120
203	2.2385
204	1.7635
205	1.8799
206	1.8799
207	1.7635
208	2.2385
209	2.3120
210	2.6307
211	1.9780
212	1.8723
213	1.9917
214	1.9918
215	1.8723
216	1.9780
301	2.6307
302	2.3120
303	2.2385
304	1.7635
305	1.8799
306	1.8799
307	1.7635
308	2.2385
309	2.3120
310	2.6307
311	1.9780
312	1.8723
313	1.9917
314	1.9918
315	1.8723
316	1.9780

The above respective undivided interests established and to be conveyed with the respective condominium units as indicated above, cannot be changed, and said Grantor, its successors and assigns, and grantees, covenant and agree that the undivided interests in the common areas and facilities and the fee titles to the respective condominium units conveyed therewith, shall not be separated or separately conveyed, and each said undivided interest shall be deemed to be conveyed or encumbered with its respective condominium unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the condominium unit.

E. Limited Common Area. A portion of the common areas and facilities is hereby set aside and allocated for the exclusive use of the respective condominium units as is hereinafter designated, and as shown on survey attached hereto, as Exhibit "A" and made a part hereof, and said areas shall be known as limited common areas and facilities. Limited common areas and facilities shall include the patios or balconies adjoining each unit, the unfinished surface of perimeter walls, ceilings and floors, a storage area on the fifth level, perimeter doors and windows which serve exclusively a single unit, any system or component part thereof which serves a unit exclusively to the extent that such component or system is located outside the unit. Such patios, and balconies, storage areas, doors, windows, components and systems shall be for the exclusive use of the unit owner of the particular unit adjacent thereto.

The Parking Garage is a part of the Common Areas, and includes all Garage Parking Spaces, and all entrances, exits, fixtures, equipment and associated facilities. The Declarant, the Board or the Association may allocate Garage Parking Spaces on such basis as the Declarant, the Board or Association deems appropriate and may prescribe such rules and regulations with respect to the Parking Garage as it may deem fit. Notwithstanding anything to the contrary herein contained, a portion of the Parking Garage has been divided into Garage Parking Spaces and

delineated on the Plans. The legal description of each Garage Parking Space shall consist of the identifying symbol of such Parking Space as shown on the Plans. Wherever reference is made to any Garage Parking Space in a legal instrument or otherwise, a Garage Parking Space may be deemed good and sufficient for all identifying symbol as shown on the Plans and every such description shall be deemed good and sufficient for all purposes. Unit Owners will have the right to purchase, as a Limited Common Area, the exclusive use to a Garage Parking Space, and he shall have his Unit Ownership include as a right and benefit appurtenant thereto, a grant of a perpetual and exclusive use, hereinafter referred to as the "Exclusive Parking Use," consisting of the right to use for parking purposes that certain Garage Parking Space purchased by said Unit Owner and set forth on his Deed. Each deed, lease, mortgage, or other instrument affecting a Unit Ownership shall include the Exclusive Parking Use to the specific Garage Parking Space so purchased and appurtenant thereto. Any such deed, lease, mortgage or other instrument purporting to affect a Unit Ownership without also including the Exclusive Parking Use to the specific Garage Parking Space expressly allocated to said Unit, shall be deemed and taken to include the said Exclusive Parking Use to the said Garage Parking Space, even though not expressly mentioned or described therein. Owners may lease between themselves the Exclusive Parking Use to a Garage Parking Space appurtenant to their own Unit Ownership. No person not having an interest in a Unit Ownership shall have any interest in and to a Garage Parking Space for any purpose unless permission in writing is given by the Board. The term of any lease of the Exclusive Parking Use to any specific Garage Parking Space shall not exceed two (2) years. All Garage Parking Spaces and access thereto shall be subject to such reasonable rules and regulations as may be established by the Board. The Declarant hereby expressly reserves to itself the right to make the initial sale of each and every Garage Parking Space, and to sell and grant the Exclusive Parking Use with respect to each such Garage Parking

Space. Any funds paid to the Declarant for any Exclusive Parking Use shall be the sole property of the Declarant, and neither the Association nor any Owner shall have any right or claim to such funds.

F. Legal Description of Condominium Unit. The following shall be an adequate legal description of each condominium unit:

Unit _____ and Garage Parking Space _____ and all appurtenances thereto in Greenleaf Condominium (Horizontal Property Regime) as recorded in Book _____, page _____, under date of _____, of _____, of Records of Elkhart County, Indiana.

G. Responsibility for Maintenance:

1. Condominium Units:

a) The Association shall maintain, repair, and replace as common expense:

1) all portions of a condominium unit (except interior wall surfaces) contributing to the support of the building, which portions shall include but not be limited to, the outside walls of the building and all fixtures thereof; perimeter walls; floor and ceiling slabs; load bearing walls; excluding the interior wall, floor and ceiling surface of a unit.

2) all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained within condominium units which services part or parts of the property other than the condominium unit within which contained.

3) the maintenance and repair of the parking area and the parking garage shall be the responsibility of the association.

4) the maintenance and repair of balconies and porches shall be the responsibility of the association, except that carpeting on the balconies shall be the responsibility of the unit owner.

5) all incidental damage caused to a condominium unit by maintenance, repair or replacement work shall be promptly repaired as a common expense.

b) The responsibility of the condominium unit owner shall be as follows:

1) to maintain, repair, and replace at his expense all portions of his condominium unit except the portion to be maintained, repaired, and replaced by the Association as a common expense. This includes, without limitation, the air conditioning and heating system, the hot water system, fireplace and all glass surfaces, window trim and screens. Such shall be done without disturbing the rights of other owners;

2) maintain, repair, and replace all internal installations of such unit such as refrigerators, range and other kitchen appliances..

3) all of the decorating within his own Unit and the Limited Common Areas servicing his Unit as may be required from time to time, including, but not limited to, painting, wallpapering, washing, cleaning, panneling, floor covering, including floor covering on balconies and patios, draperies, window shades, curtains, lighting and other furnishings and decorating, except that the Association shall be obligated to maintain the garage parking spaces . Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceiling of his Unit, and such Unit Owner shall maintain such interior surfaces in good condition at his sole expense. Such maintenance and use shall be subject to the rules and regulations of the Board or Association as may be imposed from time to time. Except with respect to improvements in place as of the date of the recording of this Declaration, each Unit Owner who shall elect to install in any portion of his Unit (other than in bath and powder rooms) hard surface floor covering (i.e., tile, slate, ceramic, parquet, etc.) shall be first required to install a sound absorbent undercushion of such kind and quality as to prevent the transmission of noise to the Unit

below, and shall obtain approval of the Board prior to making such installation.

If such prior approval is not so obtained, the Board may, in addition to exercising all of the other remedies provided for in this Declaration for breach of any of the provisions hereof, require such Unit Owner to cover all non-conforming work with carpeting, or may require removal of such non-conforming work, at the expense of the offending Unit Owner. The interior and exterior surfaces of all windows forming part of a perimeter wall of a Unit shall be cleaned or washed at the expense of each respective Unit Owner. The use of and the covering of the interior surfaces of such windows, whether by draperies, shades or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Board as may be imposed from time to time.

4) all of the maintenance, repair and replacements of the Limited Common Areas benefiting his Unit, in whole or in part, except to the extent as otherwise directed by the Board or as is otherwise provided herein shall be performed by the respective Unit Owner. In addition, each Unit Owner shall be individually responsible for the repair, maintenance and replacement of all door and window locks and hardware with respect to which each Unit Owner is entitled to the exclusive use. At the direction of the Board, the Board may perform, or cause to be performed such maintenance, repairs and replacements of the Limited Common Areas and the cost thereof shall be assessed in whole or in part to Unit Owners benefited thereby, and further, at the discretion of the Board, the Board may direct such Unit Owners, in the name and for the account of such Unit Owners, to arrange for

such maintenance, repairs and replacements, to pay the cost thereof with the funds of Owners, to arrange for such maintenance, repairs and replacements, to pay the cost thereof with the funds of the Unit Owner, and to procure and deliver to the Board such lien waivers and contractor's or subcontractor's sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

5) not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building, without first obtaining approval of the Board of Directors;

6) to promptly report to the Association any defect or need for repairs, the responsibility for the remedying of which is that of the Association.

c) Alteration and Improvement. Neither an owner nor the Association shall make any alterations in the portions of a condominium unit or building which is to be maintained by the Association, or remove any portion which would jeopardize the safety or soundness of a building or impair any easement, without first obtaining approval in writing of owners of all other condominium units. A copy of the plans for all of such work prepared by an architect licensed to practice in this state shall be filed with the Association prior to the start of the work.

2. Maintenance of Common Areas and Facilities:

a) By the Association. The cost of the maintenance and operation of the common areas and facilities including the replacement thereof, shall be a common expense;

b) Alteration and Improvement. There shall be no major alteration nor improvement of common areas and facilities

without the prior approval in writing by 75% of the owners of all of the condominium units, and which does not interfere with the rights of any owners without their consent.

c) Rules and Regulations. No occupier of the property, guest or employee of the Association shall use the common areas and facilities or any part thereof in any manner contrary to the provisions of the By-Laws Exhibit "B", attached hereto and made a part hereof.

H. Covenants of Grantor and Unit Owners. Said Grantor, its successors and assigns, by this declaration, and all future owners of the condominium units by their acceptance of their deed covenant and agree as follows:

1. The common areas and facilities shall remain undivided and no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the condominium.

2. The condominium units shall be occupied and used by the respective owners only as private dwellings for the owner, his family, tenants, and social guests and for no other purpose.

3. The owner of the respective condominium units shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors, and ceilings surrounding his respective condominium unit, these being specifically designated as limited common walls, nor shall said owner be deemed to own pipes, wires, conduits or other public utility lines running through said respective condominium units which are utilized for, or serve more than condominium unit, except as tenants in common with the other condominium unit owners. Said owner, however, shall be deemed to own the walls and partitions which are contained in said owner's respective condominium unit,

and also shall be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors, and ceilings, including plaster, paint, wallpaper, glass surfaces, etc.

4. The owners of the respective condominium units agree that if any portion of the common areas and facilities encroach upon the condominium units, or any unit encroaches on another unit or the common area, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event the building is partially or totally destroyed, and then rebuilt the owners of condominium units agree that encroachment of parts of the common areas and facilities due to construction shall be permitted and that valid easement for said encroachment and the maintenance thereof shall exist.

5. An owner of a condominium unit shall automatically, upon becoming the owner of a condominium unit or units, be a member of Greenleaf Condominium Association, Inc., an Indiana Not-for-Profit Corporation, herein referred to as the "Association," and shall remain a member of said Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease.

6. The owners of condominium units covenant and agree that the administration of the condominium shall be in accordance with the provisions of this Declaration, the By-Laws of the Association, which are made a part hereof and attached as Exhibit "B".

7. That each owner, tenant or occupant of a condominium unit shall comply with the provisions of this Declaration,

the By-Laws, decisions and resolutions of the Association or its representative, as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action to recover sums due, for damages or for injunctive relief.

8. That this Declaration shall not be revoked or any of the provisions herein amended unless all of the owners and the mortgagees of all of the mortgages covering the condominium units unanimously agree to such revocation or amendment by duly recorded instruments.

9. That no owner of a condominium unit may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by the abandonment of his condominium unit.

10. If any owner fails to pay any installment of common expenses within thirty (30) days of the due date, the Board of Directors may accelerate the maturity of the remainder of the installments of such common expenses due for the balance of the assessment year, and may enforce collection thereof. A late charge in an amount to be determined by the Board, from time to time, shall be assessed against unit owners whose installments are not paid within (15) fifteen days of the due date.

11. The Board of Directors may by By-Laws, establish and enforce rules and regulations governing the use and occupancy of the property. The By-Laws are attached to this Declaration of Condominium as Exhibit "B" and are incorporated herein by reference.

J. Lien for Unpaid Assessment. The Association shall have a lien on each condominium unit for any unpaid assessments and for interest thereon against the owner thereof, which lien shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien. Said lien shall be effective from and after the time of

recording in the Office of the Recorder of Elkhart County, Indiana, a claim of lien stating the description of the condominium unit, the name of the record owner thereof, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid or satisfied. Such claims of lien shall be signed and verified by an officer of the Association or by the managing agent of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien. Such liens shall be subordinate to the lien of a first mortgage, of record, tax liens on the condominium units in favor of any assessing units or special district. Liens for assessment may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mechanics and materialmen's lien. The Association may also sue to recover a money judgment for unpaid assessments without waiving the lien securing the same. Unpaid assessment shall bear interest at a rate to be set from time to time by the Board of Directors of the Association.

K. Mortgagee's Provision. The following provisions are intended for the benefit of each holder of a first mortgage upon a unit, and if in conflict with any other provisions of the declaration the following provision shall control.

1. Where the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium unit as a result of the foreclosure of the first mortgage or where a mortgagee of a first mortgage of record obtains title to the condominium unit as a result of a conveyance in lieu of foreclosure of the first mortgage such acquirer of title, its successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association pertaining to such condominium unit which became due prior to acquisition of title in the manner above provided. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the condominium unit

owners including such acquirer, its successors and assigns.

2. The mortgagee of a first mortgage of record of a condominium unit shall receive written notice from the Association thirty (30) days prior to the effective date of:

- a) any change in the condominium documents;
- b) any change of manager of the condominium project.

3. The mortgagee of a first mortgage on a condominium unit shall receive written notice from the Association of any default by the mortgagor in the performance of the mortgagor's obligation under the condominium documents which is not cured in thirty (30) days.

4. The mortgagee of a first mortgage which comes into possession of a condominium unit pursuant to remedies provided in the mortgage, or foreclosure of the mortgage or deed in lieu of foreclosure shall be exempt from any "right of first refusal" or other restriction on the sale or rental of the mortgage unit, including but not limited to, restrictions on the posting of signs pertaining to sale or rental of the unit.

5. Unless all mortgagees of first mortgages of record of condominium units give their prior written approval, the Association shall not:

- a) terminate professional management for the condominium project and assume self-management of the same;
- b) change the pro rata interest or obligations of any unit for purposes of levying assessments and charges and determining shares of the common elements and proceeds of the project;
- c) partition or subdivide any unit or the common elements of the project or annex additional lands; nor
- d) by act or omission seek to abandon the condominium status of the project except as provided by statute in case of substantial loss to the units and common elements of the condominium project;
- e) amend the condominium declaration to limit or

eliminate mortgagee's provisions or to materially amend the declaration.

f) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common areas. The granting of easements for public utilities or other public purpose consistent with the use of the common areas by the unit owners shall not be deemed a transfer under this section.

g) use hazard insurance proceeds for losses to any property (whether units or common area) for other than repair, replacement, or construction of such improvements except as provided by statute.

6. There shall be included in each annual assessment levied by the Association (but not as a special assessment) an amount sufficient to establish an adequate reserve fund for the replacement of the common areas.

7. No provision of this declaration or any of the Condominium instruments shall be deemed to give a unit owner or any other party priority over the rights of the first mortgages of the units pursuant to their mortgages in case of destruction to unit owners of insurance proceeds or condemnation awards for losses to or a taking of the units and/or the common areas and facilities or any portion thereof. In such event the holder of a first mortgage shall be entitled to timely notice of any such loss or taking.

Upon request in writing, each first mortgagee of a unit shall have the right:

a) to examine the books and records of the Association during normal business hours.

b) to receive an annual financial statement from the association whether ninety (90) days following the end of each fiscal year.

c) to receive notice of all meetings of the association and to designate a representative to attend all meetings.

d) to receive notice of any decision by the unit owners to make a material amendment to this Declaration the By-Laws or the article of Incorporation of the Association.

8. Upon specific written request to the Association, each first mortgagee of a Unit shall be furnished notice in writing by the Association of any damage to or destruction or taking of the common areas and facilities of such damage or destruction or taking exceeds Ten Thousand Dollars (\$10,000), or if damage shall occur to a unit in excess of One Thousand Dollars (\$1,000.), notice of such event shall also be given.

9. Where a first mortgage held by a bank, savings and loan association, mortgage banker, insurance company, real estate investment trust, union pension fund, national mortgage association or agency of the federal or state government by some circumstance fails to be a first mortgage, but it is evident that it was intended to be a first mortgage, it shall nevertheless for the purposes of this declaration be declared to be a first mortgage.

L. Grantee's Liability for Assessment. In a voluntary conveyance of a condominium unit, the Grantee of the unit shall be jointly and severally liable with the Grantor for all unpaid assessments by the Association against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee therefor. However, any such Grantee shall be entitled to a statement from the manager or the Board of Directors of the Association, as the case may be, setting forth the amount of the unpaid assessments against the Grantor due the Association and such Grantee shall not be liable for, nor shall the condominium unit conveyed by subject to a lien for, any unpaid assessments made by the Association against the Grantor in excess of the amount therein set forth.

M. Validity of Association Acts. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Indiana Horizontal Property Law, this Declaration or in the By-Laws, shall be deemed to be binding on all owners of condominium units, their successors and assigns.

N. Insurance. The Board of Directors of the Association shall obtain and continue in effect blanket property insurance in form and amount satisfactory to mortgagees holding first mortgages covering condominium units. The insurance other than title insurance which shall be carried upon the condominium units shall be governed by the following provisions:

1. Authority to Purchase. All blanket insurance policies shall be purchased by the Association for the benefit of the Association and the co-owners and their mortgagees as their interests may appear, and provision shall be made for the issuance of certificates of mortgage endorsements to the mortgagees of condominium units. Co-owners may obtain additional insurance coverage at their own expense, and shall deposit a copy of such insurance policy with the Association.

2. Coverage:

a) Hazard Insurance. The building and improvements upon the land, all walls and fixtures located within the boundaries of all condominium units (except additions or improvements made by owners), all the improvements which comprise the common area and facilities, and all personal property included in the common areas and facilities shall be insured for the full replacement value, as determined annually by the Board of Directors of the Association. Such coverage shall afford protection, if customarily available, against:

- 1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location, and use as the condominium building, including, but not limited to, vandalism and malicious mischief;

and shall contain:

1. waiver of the insurance company's right to subrogation against the condominium unit owners and maintenance personnel,

2. waiver of the pro rata clause by the insurance company. Under a standard fire and extended coverage policy the insurance company agrees to pay the full loss (up to the amount of the policy), but usually reserves the right to pay only a fraction of any loss if other insurance companies have issued coverage on the same risk. This is commonly referred to as the "pro rata clause." The pro rata clause shall be waived because of the danger of its being invoked to curtail recovery on the blanket fire and extended coverage policy since any number of unit owners may have intentionally or inadvertently obtained fire and extended coverage protection for the full value of their individual units.

3. no provision providing for contribution as respects other such policies of insurance carried individually by the unit owners whether such insurance covers their individual units and/or additions and improvements made by the unit owners to their individual units.

4. a provision that notwithstanding any provision there of which give the insurer an elective to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the unit owners elect to sell the property or remove the property from the provisions of the Horizontal Property Law.

5. a provision that such policy will not be terminated without at least ten (10) days prior written notice to the mortgagee of each unit.

b) Public Liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, which may include, hired automobile and non-owned automobile coverages, and cross liability endorsement to cover liabilities of the owners as a group to an owner. In no event shall such coverage be for less than One Million Dollars (\$1,000,000.00) with respect to liability for personal injury or property damage arising out of one accident.

c) Workmen's Compensation coverage shall be maintained in amounts and coverages necessary to meet the requirement of law and employees liability insurance in an amount to be determined by the Board of Directors.

d) A fidelity bond indemnifying the Association, the Board, and the Unit Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association, the Board, or the Unit-Owners in such amounts as the Board of Directors may determine.

e) The Association shall purchase Officers and Directors liability insurance in an amount to be determined by the Board of Directors.

f) Such other insurance as is approved by the Board of Directors of the Association from time to time shall be maintained.

3. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense. The Association shall pay the premiums on policies of insurance at least thirty (30) days prior to the expiration date of the respective policies and shall notify the mortgagee of each unit of such payment within (10) days after the date on which payment is made.

4. Each unit owner shall be responsible for his own insurance on the contents of his own unit, and furnishings, and personal property therein, and his personal property stored elsewhere on the property, and his personal liability to the extent not covered by the policies of liability insurance obtained by the Board.

5. Each Unit Owner shall be required to report all additions or alterations to his Unit promptly in writing to the Board, without prior request from the Board or the management agent, and to reimburse the Association for any additional insurance premiums attributable thereto, and he shall be responsible for any deficiency in any insurance loss recovery from his failure to so notify the Board. The Board shall not be responsible for obtaining insurance on such additions, alterations or improvements unless and until such Unit Owner shall make such report and request the Board in writing to obtain such insurance, and shall make arrangements satisfactory to the Board for such additional premiums; and upon the failure of such Unit Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements.

"Additions" or "alterations" shall mean property attached to the Unit and not readily removable without damage to the Unit, including but not limited to, carpeting, special floor, special wall covering and paneling, but not including personal property owned by the Unit Owner and not attached to the Unit.

6. Each Unit Owner hereby waives and relases any and all claims which he may have against any other Unit Owner, the Association, its officers, members of the Board, Declarant, the manager and managing agent of the Property, if any, and their respective employees and agents, for any damage to the Common Areas, the Units, or to any personal

property located in the Unit or Common Areas caused by fire or other casualty to the extent that such damage is covered by fire or other form of casualty insurance.

7. Cancellation of Insurance. The Board shall be responsible, in the event any insurance required in this declaration is cancelled, for serving notice of such cancellation upon any person insured thereunder. In addition, written notice of the procurement of any insurance obtained by the Association and any subsequent changes in said coverage shall be furnished to any person or entity insured thereunder.

8. Insurance Trustee. All insurance policies purchased by the Association shall be for the benefit of the Association and the owners and their mortgagees as their interest may appear, and shall provide that if the insurance proceeds covering property losses are in excess of \$10,000 then such proceeds shall be paid to a federally insured institution having offices in Elkhart County, Indiana, and possessing trust powers as may be approved by the Board of Directors of the Association, which trustee is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the condominium unit owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

a) Condominium Unit Owners. Proceeds on account of damage to common areas and facilities, shall be held for each owner, with each owner's share being the same as his interest in the common areas and facilities. In the

event of damage to one or more condominium units, proceeds shall be held for the owner of each such condominium unit.

b) Mortgagees. In the event a mortgagee holds a mortgage covering a condominium unit; the share of the condominium unit owner shall be held jointly for the owner and the mortgagee as their interests may appear.

9. Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

a) Expense of the Trust. All expenses of the Insurance Trustee shall be first paid or provision made therefor.

b) Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, according to their interest in the common areas and facilities, remittances to owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a condominium unit and may be enforced by such mortgagee.

c) Failure to Reconstruct or Repair. It is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a condominium unit and may be enforced by such mortgagee.

d) Certificate. In making distribution to owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the association as to the names of the owners and their respective shares of the distribution.

10. Association as Agent. The Association is hereby irrevocably appointed agent for each owner and for each owner of a mortgage or other lien upon a condominium unit and for each owner of any other interest in the Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

11. Payment of Premium. Insurance premiums for each type of insurance coverage shall be a common expense, and collections for such premium payments shall be held in a separate escrow account in a federally insured institution and used solely for the payment of the particular insurance as such premiums become due.

12. Determination to Reconstruct or Repair:

a) In case of fire or any other casualty or disaster, other than complete destruction of the building containing the condominium units, the improvements shall be reconstructed and the insurance proceeds applied to reconstruct the improvements.

b) In the event of complete destruction of the building containing the condominium units, the building shall not be reconstructed and 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 facilities, except that in the event the association purchased additional insurance to cover additions and alterations of an individual unit, the additional proceeds attributable to that unit shall be delivered to that unit owner. The property shall then be considered removed from the condominium unless by a vote of two-thirds (2/3) of all the co-owners a decision is made to rebuild the building, in which case the insurance proceeds shall be applied to reconstruction and any excess of construction costs over insurance proceeds shall be

contributed as a common expense and be assessed in the same manner as a common expense.

c) A determination of total destruction of the building containing the condominium units shall be determined by a vote of two-thirds (2/3) of all the co-owners at a special meeting of the association called for that purpose.

d) Certificate. The Insurance Trustee may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.

9. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the original building plans; or if not, then according to plans and specifications approved by the Board of Directors of the Association.

10. Responsibility. If the damage is only to those parts of one or more condominium units for which the responsibility of maintenance and repair is that of the owner, then the individual condominium unit owner shall be responsible for reconstruction and repair after casualty. All damage to the common area and facilities shall be the responsibility of the Association for reconstruction and repair after casualty.

11. Estimate of Cost. Immediately after a determination to rebuild or repair damage to the property, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

12. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of costs thereof are insufficient, assessments shall be made against all owners in sufficient amounts to provide funds for the

payment of such costs. Such assessments shall be deemed to be common expenses and shall be in the manner provided for common expenses. Such assessments on account of damage to common areas and facilities or one or more of the condominium units shall be in proportion to each condominium unit owner's interest in the common areas and facilities.

13. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee, or by the Association in the case of insurance proceeds of \$10,000 or less, and funds collected by the Association from assessments against owners, shall be disbursed in payment of such costs in the following manner:

a) Association. If the total of assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the Association is more than \$10,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse the same in payment of the costs of reconstruction and repair.

b) Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association 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:

1) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than \$10,000.00 then the construction fund shall be disbursed in payment of such costs by the Association; provided, however, that upon request to the Insurance Trustee by

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 hereafter provided for the reconstruction and repair of major damage.

2) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the association is more than \$10,000, then the construction fund shall be disbursed in payment of such costs in the manner required by the Association.

3) Surplus. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund.

O. Grantor's Covenant. As long as said Grantor, its successors and assigns, owns one or more of the condominium units established and described herein, said Grantor, its successors and assigns shall be subject to the provisions of this Declaration and Exhibits "A" and "B" attached hereto and made a part hereof, and said Grantor covenants to take no action which would adversely affect the rights of the Association with respect to assurances against latent defects in the property or other right assigned to the Association, the members of such association and their successors in interest, as their interests may appear, by reason of the establishment of the condominium.

P. Assessment for Real Estate Taxes. Real estate taxes are to be separately taxed to each condominium unit as provided in the Horizontal Property Law. In the event that for any one year (including the year this Declaration is recorded) in which real estate taxes or any other special tax assessments are not separately assessed and taxed to each condominium unit, but are assessed and taxed on the property as a whole, then each owner shall pay his proportionate share thereof in accordance with his

interest in the property as a part of his regular monthly assessment for common expenses.

Q. Declarant's Rights. Notwithstanding any other provision of this Declaration to the contrary, until the Grantor has sold all of the condominium units of the Condominium, neither the condominium unit owners nor the Association nor the use of the property shall interfere with the completion of any contemplated improvements and the sale of the condominium units. The Grantor may make such use of the unsold condominium units and common areas and facilities as may facilitate sales, including, but not limited to, maintenance of a sales office, management office, and model condominium unit, the showing of the condominium units, and the display of signs. There shall be no limit on the number, location, and relocation of such sales offices, management offices, and model condominium units as long as declarant continues to be a unit owner. The provisions of this paragraph shall terminate when declarant ceases to be a unit owner.

R. Non-Wiaver. The failure of the Association or any owner to enforce any covenant, restriction or other provision of the Horizontal Property Law or condominium documents shall not constitute a waiver of the right to do so thereafter.

S. Liability of the Board of Directors. Neither the members of the Board nor the officers of the Association shall be liable to the Unit Owners for any mistake of judgment or for any other acts or omission of any nature whatsoever as such Board members and officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the members of the Board and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Association on behalf of the Unit Owners or arising out of their status as Board members or officers unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of this Declaration. It is intended that the

foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid or received in settlements) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any member of the Board or officers of the Association may be involved by virtue of such persons being or having been such member or officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such member or officer, or (b) any matter settled or compromised, unless in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such member or officer. It is also intended that the liability of any Unit Owner arising out of any contract made by or other acts of the Board or officers of the Association, or out of the aforesaid indemnity in favor of the members of the Board and officers of the Association, shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Areas bears to the total percentage interest of all Unit Owners in the Common Area. Every agreement made by the Board or by the managing agent on behalf of the Unit Owners shall provide that members of the Board or the managing agent, as the case may be, are acting only as agents for the Unit Owners, and shall have no personal liability thereunder (except as Unit Owners) and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Areas bears to the total percentage interest of all Unit Owners in the Common Areas.

T. Amendments. The Grantor reserves the exclusive and sole right, acting alone, to file supplemental declarations to this Declaration, and to amend this Declaration and all supplemental declarations at any and all times prior to the conveyance to purchasers of forty-five of the units, or until December 31, 1981, whichever shall first occur. No amendment by the grantor shall alter or change any condominium unit owner's interest in the common elements, common expenses, and the common profits as established in this Declaration, nor shall the voting rights of a condominium unit be altered or changed. No amendment shall be effective without the approval of General Electric Credit Corporation as long as General Electric Credit Corporation has a first mortgage on any unit.

Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) 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 and 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, (ii) to induce any of such agencies or entities to make, purchase sell insure, or guarantee first mortgages covering Unit Ownerships, (iii) to bring this Declaration into compliance with the Indiana Horizontal Property Law or (iv) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant no longer holds or controls title to a Unit.

After the expiration of the time within which the developer shall have the sole and exclusive right to amend this Declaration, this Declaration may be amended in the following manner:

1. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any regular or special meeting called or convened in accordance with the By-Laws. If no meeting is required, copies of the amendment shall be given to each owner prior to the recording of such amendment.

2. Resolution. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Directors and members not present at the meetings considering the amendment may express their approval in writing.

3. Approval. An amendment to the Declaration shall require the approval of not less than three (3) Directors and by the unit owners owning not less than seventy-five per cent (75%) of the interest in the common elements.

4. Agreements. In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record owners of units in the Condominium in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Office of the Recorder of Elkhart County, Indiana.

5. Proviso:

a) It is provided, however, that no amendments shall discriminate against any condominium unit owners unless the owner so affected shall consent; and no amendment shall change any unit nor the share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, unless the record owner of the unit concerned and all record owners of mortgages thereon shall join in the execution of the amendment. Neither shall an amendment of this Declaration make any change

in the section entitled "Insurance" nor in the section entitled "Reconstruction or Repair after Casualty" unless the record owners of all mortgages upon units in the Condominium shall join in the execution of the amendment.

b) Provided, however, that all holders of first mortgages of record have been notified by certified mail of any change, modification, or rescission and an affidavit by the Secretary of the Association certifying to such mailing is made part of the instrument and provided further that any material amendment shall have the approval of the mortgagees as provided in Section K of this declaration.

6. Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the Office of the Recorder of Elkhart County, Indiana.

U. Termination. The condominium may be terminated only in the manner provided by the Horizontal Property Law. The termination of the condominium shall be evidenced by a certificate setting forth the facts affecting the termination signed by all unit owners and consented to by all the holders of liens affecting any of the condominium units. The termination shall be effective upon being recorded in the Office of the Recorder of Elkhart County, Indiana. After termination of the condominium, the owners shall own the property and all assets of the Association as tenants in common undivided shares, and their respective undivided shares of the owners. Such undivided share of the owners shall be the same as the interest each owner held prior to the termination.

V. Remedies:

1. Abatement and Enjoinment. The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, upon not less than ten (10) days' notice, in addition to the rights set forth in the next succeeding section:

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

b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

All expenses of the board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expense, and all damages, liquidated or otherwise, together with interest thereon at a rate to be determined by the Board of Directors from time to time until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property. Said lien shall be perfected and enforced in accordance with the provisions of Section J. of this declaration and shall be subject to the priorities set forth in Section J. Any and all such rights and remedies may be exercised at any time and from time to time cumulatively, or otherwise by the Board. In addition

any aggrieved Unit Owner shall have the same rights and remedies as the Board hereunder in connection with any such violation.

2. Involuntary Sale. If any Unit Owner (either by his own conduct or any other occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall recur after such notice, and subsequent curing thereof by the Unit Owner, then the Board shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate the right of said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy use or control his Unit and thereupon an action in equity may be filed by the members of the Board against the defaulting Unit Owner for a decree of mandatory injunction against the Unit Owner or Occupant or, in the alternative, a decree declaring the termination of the defaulting Unit Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant and ordering that the right, title and interest of the Unit owned by him on account of the breach of covenant and ordering that the right, title and interest of the Unit Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Unit Owner from reacquiring his interest in the Property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. Any balance of Proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to the Unit Owner. Upon the confirmation of such sale, the

purchaser thereof shall thereupon be entitled to a deed to the Unit Ownership and, to immediate possession of the Unit sold and may petition to the court for an order for the assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall provide, that the purchaser shall take the interest in the Property sold subject to this Declaration.

W. Eminent Domain. In the event any portion of the property is taken by condemnation or eminent domain proceeding provisions for withdrawal from the provisions of the Horizontal Property Law of such portions so taken may be made by the Board. Upon the withdrawal of any Unit or portion thereof due to eminent domain, the percentage of interest in the Common Areas appurtenant to such Unit or portion thereof shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Areas, not necessarily including the Limited Common Areas, shall be allocated on the basis of each Unit Owner's percentage interest therein. Proceeds available from the withdrawal of any Limited Common Areas will be distributed in accordance with the interests of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, the responsibility for payment of assessments on such Unit or portion thereof by the Unit Owner shall cease.

X. Miscellaneous Provision:

1. Severability. Any part of this agreement held to be operative shall be severable and is to be severed, and such operative part shall not affect the remaining portions of

this agreement. The remaining parts shall continue in full force and effect as if the severed part had never been included herein.

2. Liberal Construction. The provisions of this declaration shall be literally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class condominium development.

3. Notice to Mortgagees. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any Unit Ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner whose Unit Ownership is subject to such mortgage or trust deed.

4. Manner of Giving Notices. Notices provided for in this Declaration and in the Act shall be in writing and shall be addressed to the Board or Association, or any Unit Owner, as the case may be, at the address of the respective Unit Owner (indicating thereon the number of a respective Unit if addressed to a Unit Owner), or at such other address as herein provided. Any Unit Owner may designate a different address or addresses for notices to him by giving notice of his change of address to the Board or Association. Notices addressed as above shall be deemed delivered three (3) business days after being mailed by United States first class mail, postage prepaid, or when delivered in person with written acknowledgement of the receipt thereof, or if addressed to a Unit Owner, when deposited in his mailbox in the Building or at the door of his Unit in the Building.

5. Notices to Estate or Representatives. Notices required to be given any devisee, heir or personal representative of a deceased Unit Owner may be delivered either personally or by mail to such party at this or its address appearing in the court wherein the estate of such deceased Unit Owner is being administered.

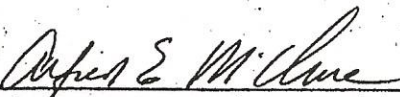
6. Conveyance and Leases. Each grantee of the Declarant and each subsequent grantee by the acceptance of a deed of conveyance, and each purchaser under a purchase contract therefor, and each tenant under a lease for a Unit, accepts the same subject to all restrictions, conditions, covenants, reservations,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

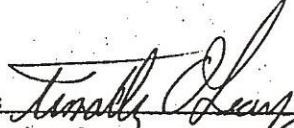
Y. Definitions. The word "Declaration" as used herein or in the By-Laws, shall refer to this Declaration of Condominium. The word "Condominium" shall refer to Greenleaf Condominium. The word "Owner" or "Unit Owner" shall refer to the co-owners of the apartment units in Greenleaf Condominium. The word "Condominium" shall have the same meaning as Horizontal Property Regime.

IN WITNESS WHEREOF, the Grantor has executed this Declaration this 20th day of June, 1980.

McTol, Inc., an Indiana Corporation

ATTEST:

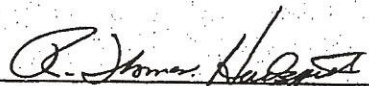

Alfred E. McClure, Secretary

By: 
Timothy O'Leary, President

STATE OF INDIANA)
COUNTY OF ELKHART) SS:

Before me, the undersigned, a notary public, personally appeared McTol, Inc., an Indiana Corporation, by Timothy O'Leary and Alfred E. McClure, its President and Secretary, respectively, and acknowledged said writing to be the act and deed of said corporation and the writing was executed and acknowledged by them by authority of the Board of Directors of said corporation.

Given under my hand this 20th day of June, 1980.


R. THOMAS HUDSPETH Notary Public

My Commission Expires:

June 26, 1982

County of Residence: Tippicanoe



This instrument prepared by: Alfred E. McClure, Attorney at Law,
1709 Teal Road, Lafayette, Indiana 47905.