900812 BK 190 PAGE 73

DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS

OF

FAIRWAY KNOLL

THIS DECLARATION is made this 19 day of January, 1989, by QUALITY VILLAGE BUILDERS, INC., an Indiana corporation (hereinafter referred to as "Declarant" or "Developer"), and

WITNESSES:

WHEREAS, Developer is the owner of all of the lands contained in the area described in Exhibit A, attached hereto and made a part hereof, which lands will be subdivided and known as "Fairway Knoll" (hereinafter referred to as the "Real Estate" or the "Development"), and will be more particularly described on the plats of the various sections thereof recorded and to be recorded in the Office of the Recorder of Monroe County, Indiana and which shall make reference hereto; and

WHEREAS, Developer intends to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject to and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions"), under a general plan or scheme of improvement for the benefit and complement of lots and lands in the Development and future homeowners thereof.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development. Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by Developer of a particular lot or tract within the Development as described in Exhibit A, to exclude any real estate as shown from the Development, or to include additional real estate.

1. DEFINITIONS.

A. The following are the definitions of the terms as they are used in this Declaration.

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(i) "Association" shall mean the "Fairway Knoll Homeowners Association, Inc.", or an organization of similar name, its successors and assigns and shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for the expense of maintaining certain Common Area and Common Property within the development as well as for providing various services which the Association may determine to provide for Owners from time to time.

(ii) "Builder" shall mean the person constructing the first residence on each Lot (which may be the Developer for one or more Lots).

(iii) "Committee" shall mean the Fairway Knoll Development Control Committee, composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause. Any vacancies from time to time existing shall be filed by appointment of Developer until such time as the subdivision is completely developed and a residence has been constructed on each Lot, at which time the Association shall appoint from its membership this Committee.

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RECORDER MONROE CO., IN

(iv) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Monroe County, Indiana.

(v) "Mortgagee" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.

(vi) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

(vii) "Easement Area" shall mean the streets, sidewalks and entranceway of the Development and those areas set aside for and included within the boundaries of one or more lots and designated as an easement on the plat of Fairway Knoll, which includes the landscaping areas, various easements for utilities, sewers, storm drainage, and retention/detention ponds.

B. Approvals, Etc. Approvals, determinations, permissions or consents required herein shall be deemed given if they are given in writing signed, with respect to Developer by an authorized officer or agent thereof, and with respect to the Committee by two members thereof.

2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered lot in the Development, unless it is otherwise designated by Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house. All tracts of land located within the Development which have not been designated by numbering as residential building lots in the recorded plat shall be Common Area and shall be used in a manner consistent with all applicable zoning requirements and the terms and provisions hereof.

B. Accessory Outbuildings Prohibited. No accessory outbuildings shall be erected on any of the residential lots without the advance written approval of the Committee. Any outbuilding approved by the Committee shall be constructed in a location such that it is substantially hidden from view from all streets in the Development.

C. Occupancy or Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

D. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. Minimum Living Space Areas. All dwellings will have, at a minimum, an attached 2-car garage and a minimum of one thousand eight hundred (1,800) square feet of living area for a single story structure, and two thousand (2,000) square feet of living area for a multi-level structure (in either case exclusive of basements, porches, garages, carports and accessory uses).

B. Residential Setback Requirements.

(i) In General. Unless otherwise provided herein or on the recorded plat, no dwelling or above-grade structure shall be constructed or placed on any Lot in the Development except as provided herein.

(ii) Definitions. "Side line" means a lot boundary line that extends from the road on which a Lot abuts to the rear line of said Lot. "Rear line" means the Lot boundary line that is farthest from, and substantially parallel to, the road on which the Lot abuts, except that on corner Lots, it may be determined from either road.

(iii) Front Yards. The front building setback lines shall be all as set forth upon the plats of the Development.

(iv) Side Yards. The side yard setback lines shall maintain a minimum distance of ten (10) feet between side yard lot lines and buildings; provided that the aggregate distance between two (2) buildings shall be a minimum of thirty (30) feet.

(v) Rear Yards. The rear setback line shall be all as set forth upon the plats of the Development.

C. Fences, Light Fixtures, Etc., Mailboxes, Lawns and Trees. In order to preserve the natural quality and aesthetic appearance of the areas within the Development, any fence, exterior light fixture, basketball goal, hot tub or other exterior structure must be approved by the Committee as to size, location, height and composition before it may be installed. All residences in the Development shall be equipped with an approved exterior light fixture located within fifteen (15) feet of the street which must be illuminated from dusk to dawn.

D. Exterior Construction. The following requirements shall be applicable unless the Committee shall approve otherwise: (i) All utility facilities in the Development will be underground, except where required to be placed above-ground by the individual utility supplier; (ii) Each driveway in the Development will be of concrete or asphalt material; (iii) No additional parking will be permitted on a Lot other than in the existing driveway; (iv) Each dwelling will have a continuous concrete sidewalk from the driveway to the front porch; (v) All exterior siding materials shall be either a wood or masonry substance or a combination thereof; (vi) All garage doors in the Development will be of a hard-board or wood material; (vii) Whenever possible, all utility meters and HVAC units in the Development will be located in places unseen or screened from the fronts of the dwellings; (viii) No outside fuel storage tanks will be permitted above ground and no gasoline storage will be permitted above or below ground in the Development; (ix) All windows in the Development will be factory or on the job painted, no raw aluminum windows will be permitted, and all windows will have an approved thermal break; (x) All gutters and downspouts in the Development will be factory or on the job painted; (xi) All roofing in the Development will be of a consistent color scheme and a shingle-type material with weight no less than two hundred thirty-five (235) pounds per square and rating of Class A; (xii) All roof pitches will be six to twelve (6:12) or greater; (xiii) No metal, fiberglass or similar type material awnings or patio covers will be permitted in the Development; (xiv) No above-ground swimming pools will be permitted on any Lot in the Development; and (xv) Modular-type construction is not permitted in the Development; provided however, that pre-fabricated home components such as walls, roof trusses, etc. will not be considered modular-type construction.

E. Heating Plants. Every dwelling in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the dwelling. Heating plants shall have ductwork capable of handling central air conditioning.

F. Damaged Structures. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

G. Prohibition of Used Structures and Modular Homes. All structures constructed or placed on any numbered Lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot, nor shall modular constructed structures be placed on any Lot.

H. Maintenance of Lots and Improvements. The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, such Owner shall:

(i) Mow, fertilize and water the Lot at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and weeds;

(ii) Remove all debris or rubbish;

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development;

(iv) Cut down and remove dead trees; and

(v) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

I. Lot Access. All Lots shall be accessed from the interior streets of the Development.

J. Sight Obstructions. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the adjoining street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street Lot lines and a line connecting points twenty-five (25) feet from the intersection of said street Lot lines (or in the case of a rounded property corner, from the intersection of the street Lot lines extended to form a corner). The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street Lot line with the edge of a driveway pavement or alley line. As to any trees or other plants located within said sight line areas, the Owner thereof shall maintain the foliage line of such trees or other plants at a sufficient height to prevent obstruction of such sight lines.

K. Remedies for Failure to Comply. In the event that any Owner fails to fully observe and perform the obligations set forth herein, and in the further event that such failure is not cured within thirty (30) days after written notice of the same is given by the Association, the Association and any Owner shall have the right to commence judicial proceedings to abate or enjoin such failure, and to take such further action as may be allowed at law or in equity to correct such failure after commencement of such proceedings. In the event that such failure causes or threatens to cause immediate and substantial harm to any property outside of such defaulting Owner's Lot or to any person, the Association shall have the right to enter upon such Lot for the purpose of correcting such failure and any harm or damage caused thereby, without any liability whatsoever on the part of the Association. All costs incurred by the Association in connection with any act or proceeding undertaken to abate, enjoin, or correct such failure, including attorneys' fees and court costs, shall be payable by the defaulting Owner upon demand by the Association, and shall immediately become a lien against his Lot, subject to payment and collection in the manner provided for collection of assessments by the Association. The rights in the Owners and the Association under this paragraph shall be in addition to all other enforcement rights hereunder or at law or in equity.

4. EASEMENTS AND PROPERTY RIGHTS.

A. Easements. There is hereby reserved for the purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of the Real Estate, to be perpetual hereof, from the date of this instrument by the Developer, its successors and assigns, full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable television), signage, landscaping, earth berms, lakes, retention ponds and such other further public service or community oriented facilities as Developer may deem necessary in the Easement Area as shown on the plat of the Development. Provided, however, the disturbed area shall be restored as nearly as is possible to the condition in which it was found. No permanent structures shall be constructed within any Easement Area, except such structures as may be required in connection with the purpose of any such easement. There is hereby specifically reserved by the Developer for the benefit of the Association a landscape easement in those areas designated as such on the plats of Fairway Knoll which the Association shall maintain in accordance with good husbandry practices. Additionally, the Developer hereby reserves an easement for the benefit of the Association and its agents, across any and all Lots for the limited purpose of providing access to Easement Areas to provide for the proper maintenance and repair of the landscaping, utilities and other facilities located therein; provided, however, that any persons entering

upon a Lot under the rights granted hereunder shall be responsible for the repair of any damage resulting from the use of any area disturbed thereby.

B. Rights to Common Property. Each Owner shall have, as a non-exclusive, reciprocal easement pertinent to his Lot, a right of access to his Lot over all streets and the right to the use of the Easement Area for their intended purposes; provided, however, that any Owner's (including such Owner's guests or invitees) use of any such Easement Area shall be at their sole risk; and provided, however, that no Owner's use of the Easement Area shall materially interfere with any other Owner's use thereof.

C. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Easement Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(i) The right of the Association to charge reasonable admission and other fees, and to establish reasonable rules and regulations for the use of any such Easement Area;

(ii) The right of the Association to suspend the voting rights and right to use of the Easement Area by any Owner for any period during which any assessment against such Owner's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations; and

(iii) The right of the Association to dedicate or transfer all or any part of the Easement Area to any corporation, association, public agency, authority, or utility for such purposes and subject to such conditions as may be approved by the members at any annual or special meeting. No such dedication or transfer shall be effective unless an instrument signifying agreement to such dedication or transfer and signed by a majority of the Owners has been recorded.

D. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Easement Area of the Association to the members of his family, his tenants, or contract purchasers who reside on the property, and subject to the rules and regulations of the Association, to his guests and invitees.

5. MISCELLANEOUS PROVISIONS AND PROHIBITIONS.

A. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Developer, Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge or lien upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development.

Neither Developer, any officer, agent, employee or contractor thereof, the Association, nor any Owner shall be liable for any damage which may result from enforcement of the provisions of this paragraph.

B. Construction of Sewage Lines. All sanitary sewage lines on the Lots shall be designed and constructed in accordance with the provisions and requirements of applicable governmental authorities. Copies of all permits, plans and designs relating to the construction of a sanitary sewer service shall be submitted in duplicate to the Committee at the time of the submission of all other plans or documents required for the obtaining from said Committee of permission to proceed. Each dwelling shall be equipped with a Hydromatic pump, two (2) H.P. liquidator grinder pump or a comparable pump approved by Developer or the Board of Directors after transfer. After conveyance of a Lot to an Owner, that Owner

shall be responsible for the maintenance of all sanitary sewage lines and pumps on the Lot.

C. Signs. No signs or advertisements shall be displayed or placed on any Lot or structures in the Development, except that one sign of not more than six square feet may be displayed for the purpose of advertising for sale a dwelling on such Lot and such signs as may be installed by Developer in Easement Areas or in connection with sales of Lots.

D. Animals. No animals shall be kept or maintained on any Lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably quiet and contained, either on a leash or in a fenced area whenever outside, so as not to become a nuisance.

E. Vehicle Parking. All campers, trailers, recreational vehicles, boats, commercial vehicles or similar vehicles, other than ordinary family passenger vehicles (including vans), shall be parked in the garage with the garage door closed such that it is not visible to the occupants of other Lots in the Development or the users of any street in the Development. All passenger vehicles shall be parked in the garage or on a driveway; except for vehicles of guests that may be parked on a street for a temporary period not exceeding six (6) hours.

F. Garbage, Trash and Other Refuse. No Owner of a Lot in the Development shall burn or permit the burying out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in subparagraph G below. All dwellings built in the Development shall be equipped with a garbage disposal unit.

G. Trash Receptacles. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Development at any time, except at the times when refuse collections are being made.

H. Model Homes. No Owner of any Lot in the Development other than a Builder shall build, or permit the building upon said Lot of, any dwelling that is to be used as a model home or exhibit house.

I. Temporary Structure. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot except for such temporary structures as the Developer may approve for construction, sales or related purposes, nor shall any overnight camping be permitted on any Lot.

J. Ditches and Swales. It shall be the duty of every Owner of every Lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection. There is hereby reserved an easement to be perpetual from the date hereof for all such drainage facilities as the same may now exist or may hereafter exist from time to time over all Lots on the Real Estate. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their Lots in conformity with specifications and recommendations of the Committee.

K. Utility Services. No utility services shall be installed under finished streets except by jacking, drilling or boring unless specifically approved by Developer. All utility facilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.

L. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in the Development without the approval of the Committee. No septic tanks shall be installed on any of the Lots.

M. Antennas and Satellite Dishes. Exposed antennas and satellite dishes shall not be permitted in the Development.

N. Solar Heat Panels. Unless otherwise approved by the Committee no solar heat panels shall be allowed in the Development.

6. DEVELOPMENT CONTROL COMMITTEE.

A. Powers of Committee.

(i) In General. No dwelling, building structure or improvement of any type or kind shall be repainted, constructed or placed on any Lot in the Development, and no existing trees shall be removed, without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to such scale as the Committee may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land surveyor, engineer or architect. Plat plans submitted for Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof.

(ii) Power of Disapproval. The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when:

(a) the plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;

(b) the design or color scheme of a proposed repainting or improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or

(c) the proposed improvement, or any part thereof, or proposed tree removal, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of the other Owners.

(iii) Developer Improvements. The Committee shall have no powers with respect to any improvements or structures erected or constructed by the Developer (or any Builder if Developer has approved the plans therefor).

B. Duties of Committee. The Committee shall approve or disapprove proposed improvements within fifteen (15) days after all required information shall have been submitted to it. One (1) copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval.

C. Liability of Committee. Neither the Committee nor any agent thereof, nor Developer, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

D. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

E. Remedies for Failure to Obtain Approval. In the event any changes or improvements are made to any structures on any Lot without first obtaining the approval of the Committee as required herein, the Association and the Committee shall have the enforcement rights set forth in Section 3(K) hereof and may require any changes or improvements undertaken or installed without the approval of the Committee to be removed or renovated by whatever means the Association and/or Committee deem appropriate, with the costs thereof, including reasonable

attorneys fees, to become a lien against the defaulting Owner's Lot as more specifically described in Section 3(K) hereof.

7. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two (2) or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two (2) or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one (1) single dwelling. No double family houses shall be constructed in the Development.

8. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including Developer, Association and any homeowner within Fairway Knoll, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing to abide by, enforce or carry out any of these Restrictions.

B. Government Enforcement. The Plan Commission of Monroe County, Indiana, its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Plan Commission; provided further, that nothing herein shall be construed to prevent the Plan Commission from enforcing any provisions of the Subdivision Control Ordinance, as amended, or any conditions attached to approval of the plat of the various sections of the Fairway Knoll subdivision by the Plan Commission.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

9. EFFECT OF BECOMING AN OWNER.

The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners, covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

10. TITLES.

The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.

11. DURATION AND AMENDMENT.

A. This Declaration shall be effective for an initial term of twenty (20) years and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless as of the end of any term both the Owners of ninety percent (90%) of the Lots and the Mortgagees of at least ninety percent (90%) of the Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken.

Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.

B. Developer hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring this Declaration into compliance with the requirements of any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within the Development; provided that Developer shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of these Restrictions to any Owner or substantially increases the obligations imposed by these Restrictions on any Owner.

C. For any one or more of the following purposes, and at any time or from time to time, the Developer may make such amendments to this Declaration as may be deemed necessary or appropriate by the Developer without the approval of any other person or entity, which amendment shall be fully effective in accordance with its terms:

(i) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Declaration; or

(ii) To insert such provision clarifying matters or questions arising under this Declaration as are necessary or desirable and are not contrary to or inconsistent with this Declaration as theretofore in effect; or

(iii) To amend or modify this Declaration in any manner which in the reasonable opinion of the Developer does not adversely affect in any material respect the rights of any Mortgagee or Owner, nor which substantially impairs the benefits of this Declaration to any Owner or substantially increases the obligations imposed by this Declaration on any Owner.

12. RIGHTS OF MORTGAGEES.

Except to the extent otherwise provided herein, no breach of these Restrictions shall defeat or render invalid the lien of any mortgage now existing or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of said Real Estate is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to these Restrictions. Notwithstanding any other provision of these Restrictions, neither the Owners nor the Association shall have any right to make any amendment to these Restrictions which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

13. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

14. HOMEOWNERS ASSOCIATION.

The Association will be created as a not-for-profit corporation under the laws of the State of Indiana. A Supplemental Declaration of Covenants and Restrictions pertaining to the Association has been or will be recorded in the office of the Recorder of Monroe County, Indiana, and shall be binding with respect to all land contained within the Development. The Association will be responsible for controlling all maintenance of Common Areas, Common Property, the retention/detention ponds and landscaping located in the Easement Areas as well as for providing various services to the Owners in accordance with such Supplemental Declaration.

IN WITNESS WHEREOF, witness the signature on behalf of the Developer this 19 day of January, 1989.

QUALITY VILLAGE BUILDERS, INC.

By: _____
(Signature)

Max R. Kendall Pres.
(Printed Name and Title)

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me; a Notary Public in and for said County and State, personally appeared MAX R. KENDALL, the PRESIDENT of QUALITY VILLAGE BUILDERS, INC., an Indiana corporation, who acknowledged execution of the foregoing Declaration of Covenants, Easements and Restrictions as such officer acting for and on behalf of Grantor, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 19th day of January, 1989.

Signature Kimberly D. Henry

Printed KIMBERLY D. HENRY
NOTARY PUBLIC

My Commission Expires:
2/19/91

County of Residence:
MARION

This instrument was prepared by Jeffrey D. Linton, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; Telephone: (317) 236-2100.

EXHIBIT A

A part of the Northwest Quarter of Section 22, and a part of the Northeast Quarter of Section 21, Township 7 North, Range 1 West, Monroe County, Indiana, and being part of "Parcel B" in Deed Record 294, pages 414 and 415 and also being page 3 of 13 and 4 of 13 of a quitclaim deed from William F. Kirtley to Pointe Development Company as recorded in Deed Record 294, pages 411 through 424, in the office of the Recorder of Monroe County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of the Northwest Quarter of Section 22, thence North 89 degrees 46 minutes 58 seconds West along the south line of said Northwest Quarter 2174.83 feet; thence leaving said south line North 00 degrees 13 minutes 02 seconds East 1041.20 feet to the point of beginning; thence South 3 degrees 38 minutes 20 seconds West 50.08 feet; thence North 89 degrees 46 minutes 58 seconds West 449.77 feet; thence South 00 degrees 10 minutes 07 seconds West 396.74 feet; thence North 44 degrees 17 minutes 06 seconds West 286.39 feet; thence North 18 degrees 36 minutes 39 seconds West 298.51 feet; thence North 00 degrees 11 minutes 58 seconds West 547.22 feet; thence North 74 degrees 41 minutes 57 seconds East 95.41 feet to a non-tangent curve the radius point of which bears South 15 degrees 18 minutes 02 seconds East 3789.72 feet; thence along said curve 158.11 feet; thence South 49 degrees 43 minutes 24 seconds East 575.00 feet; thence South 13 degrees 23 minutes 56 seconds East 290.00 feet to the point of beginning, containing 10.73 acres, more or less.

SUPPLEMENTAL DECLARATION OF COVENANTS
AND RESTRICTIONS OF FAIRWAY KNOLL

THIS SUPPLEMENTAL DECLARATION (the "Supplemental Declaration") is made this 19th day of January, 1989, by QUALITY VILLAGE BUILDERS, INC., an Indiana corporation (hereinafter referred to as "Declarant" or "Developer"), and

WITNESSES:

WHEREAS, Developer is the sole owner in fee simple of all of the lands contained in the area described in Exhibit A attached hereto and made a part hereof (the "Real Estate" or the "Development"); and

WHEREAS, Developer is developing the Real Estate upon which Developer or its assigns may, but is not obligated to, construct residential facilities which shall be known as the "Fairway Knoll Subdivision" ("Fairway Knoll" or the "Development") and which shall be platted by Developer in sections from time to time; and

WHEREAS, the Real Estate has been platted by Developer as the Fairway Knoll Subdivision, recorded on January 23, 1989 as Instrument No. 900801 in the Office of the Recorder of Monroe County, Indiana along with the Declaration of Covenants, Easements and Restrictions which run with the land comprising Fairway Knoll which was recorded on January 24, 1989 as Instrument No. 900812 in the Office of the Recorder of Monroe County, Indiana (both of which, by this reference, are incorporated herein and, together with the plats of the future sections of the Fairway Knoll Subdivision to be recorded from time to time, are collectively referred to as the "Plat Declaration"); and

WHEREAS, Developer desires to subject the Development to certain covenants and restrictions (the "Restrictions") in addition to those set forth in the Plat Declaration in order to further insure that the development and use of the various lots in Fairway Knoll are harmonious and do not adversely affect the value of surrounding Lots on the Development; and

WHEREAS, Developer desires to provide for maintenance of the Easement Area which includes any retention/detention ponds, and improvements located or to be located in Fairway Knoll, which are of common benefit to the Owners of the various Lots within said subdivision, and to that end desires to establish certain obligations on said Owners and a system of assessments and charges upon said Owners for certain maintenance and other costs in connection with the operation of Fairway Knoll.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part of parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to the Development, or any part thereof. Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by Developer of a particular lot or tract within the Development as described in Exhibit B, to exclude any real estate as shown from the Development, or to include additional real estate.

1. DEFINITIONS.

Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned thereto in the Plat Declaration. In addition, the following are definitions of terms as they are used in this Declaration (which, for purposes hereof shall supercede any different definition of such term in the Plat Declaration).

(i) "Assessment" means the share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of paragraph 4 herein.

RECORDED
A.M. 2:45 P.M.
JAN 24 1989
RECORDER MONROE CO., IN

(ii) "Association" shall mean the "Fairway Knoll Homeowners Association, Inc.", or an organization of similar name, its successors and assigns which has been or shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for Common Expenses and the cost of such other services as may be desired for the common benefit of all Owners.

(iii) "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Easement Area, snow removal and trash removal (to the extent, if any, provided by the Association or by the Pointe Services Association), taxes assessed against any Easement Area, and any other cost or expense incurred by the Association for the benefit of the Easement Area, and shall also include the costs of insurance as required herein. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation or completion of the streets, utility lines and mains, drainage system, street lights, or other improvements constructed by Developer.

(iv) "Declarations" means this Supplemental Declaration and the Plat Declaration, collectively.

(v) "Developer" or "Declarant" means Fairway Knoll Development, an Indiana general partnership or any other person, firm, corporation or partnership which succeeds to the interest of Fairway Knoll Development as developer of Fairway Knoll.

(vi) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation; provided, however, that the Declarant and Builder shall be deemed for all purposes hereof relating to payment of Assessments not to be an Owner with respect to any Lot for the period prior to and during of initial construction of a residence thereon, the period prior to the initial sale thereof during which the residence is not being used for residential purposes and during the period such residence is being used for model/sales purposes.

2. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Additionally, the Association, and/or members therein, shall be members of the Pointe Services Association ("PSA"), a central homeowner's association composed of owners from surrounding areas. The Association, the Board of Directors and each Owner agrees to be bound by the covenants and restrictions of the PSA contained in the Declaration of Covenants, Conditions and Restrictions recorded on October 24, 1974 as Instrument No. 62543 in Book 088, Page 75, in the office of the Recorder of Monroe County, Indiana, as amended (the "PSA Declaration").

B. Classes of Membership. The Association shall have one class of voting membership which shall be comprised of all Owners who shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. When one (1) person owns two (2) contiguous Lots used for one (1) single dwelling, such Lots shall be treated as a single Lot for the purpose of determining membership in the Association and the Owner shall be entitled to cast one (1) vote with respect to those two (2) contiguous Lots, so long as the Lots remain improved with one (1) single dwelling. The vote for such Lot shall be exercised as they among themselves determine, but in no such event shall more than one vote be cast with respect to any Lot.

C. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board of Directors shall be appointed by Developer and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required herein.

D. Professional Management. No contract or agreement of the Association for professional management of the Association nor any contract of the Association with Developer shall be for a term in excess of three (3) years. Any such

agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

E. Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement of the Common Area, Common Property and Easement Areas, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declarations for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in the Declarations. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declarations or for any failure to take any action called for by the Declarations, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall, to the extent deemed necessary by the Board of Directors, procure and maintain casualty insurance for the Common Areas, Common Property and Easement Areas, liability insurance (including directors' and officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for such services as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable. In the event the Association enters into any contracts while Declarant controls the Association or prior to the sale by Declarant of the last Lot it owns in the Development, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto.

F. Transfer of Control of Association. Developer must transfer control of the Association to the Owners no later than the earlier of (a) four (4) months after three-fourths (3/4) of the Lots in Fairway Knoll have been conveyed to Owners or (b) five (5) years after the first Lot is conveyed to an Owner in the Development.

G. Mortgagees' Rights. The Mortgagees have the right, but not the obligation, to pay any overdue premiums on hazard insurance policies required to be maintained by the Association, or to secure new hazard insurance coverage in the event of a lapse of any such policies. Any Mortgagee or Mortgagees making any payment pursuant to this paragraph shall be entitled to reimbursement from the Association promptly upon written demand therefor to the Association.

H. Snow Removal. The Association or the PSA may, but shall not be required to provide snow removal services prior to the date Declarant turns over control of the Association to the Owners in accordance herewith. The cost of snow removal in excess of amounts budgeted therefor shall be paid by the Owners on a pro-rata share basis by a Special Assessment. In the event the Association enters into contracts for snow removal while Declarant controls the Association or prior to the sale by Declarant of the last Lot it owns in the Development, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto.

I. Trash Removal. In order to preserve the value of Lots in the Development and to promote the health and safety of the Owners, the Association or the PSA may designate a trash collection day and/or designate a trash collection service to be used by the Owners. Unless Declarant elects otherwise, the cost of such trash collection service shall be borne by the individual Owners in the Development, but in any event after Declarant turns over control of the Association the Owners may agree to a master contract for such service by the Association with the cost thereof to be paid for through regular assessments.

J. Easement Areas. The Association shall be primarily responsible for the maintenance of the Easement Area in a clean, orderly and well groomed condition and the Association and its agents shall have the right to enter upon the Easement Area at all reasonable times in order to fulfill this primary responsibility.

3. INSURANCE.

A. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on or in connection with the Easement Areaas the Board of Directors deem appropriate.

B. The Association also shall obtain comprehensive public liability insurance together with Workmen's Compensation Insurance, employers liability insurance, and such other liability insurance, with such coverages and limits, as the Board of Directors deems appropriate. All such policies of insurance, if any, shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies, if any, shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and name FHLMC and all Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least ten (10) days' prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

C. A professional management firm must provide insurance to the same extent as the Association would be required to provide if it were managing its own operation and must submit evidence of such coverage to the Association.

D. Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

E. Neither the Developer, Declarant, the Association, the Board of Directors nor any officer, shareholder, employee or agent of any of the foregoing shall be held liable or otherwise subject to any claims for damages in the event the discretion to obtain insurance permitted by the Declarations is exercised or not exercised.

4. COVENANT FOR MAINTENANCE ASSESSMENTS.

A. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Fairway Knoll, as the same may be platted from time to time, and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, repairing, operating, and maintenance of the Easement Area required to be maintained by the Association, including, but not limited to, the payment of taxes and insurance thereon, if any, for the cost of labor, equipment, material, and management furnished with respect to the Easement Area, and any and all other Common Expenses. Each Owner hereby covenants and agrees to pay to the Association:

(i) An equal share, based on the total number of Lots owned by Owners (excluding those owned by Declarant and any Builders), of the annual Assessments fixed, established, and determined from time to time as hereinafter provided.

(ii) An equal share, based on the total number of Lots owned by Owners (excluding those owned by Declarant and any Builders), of any special Assessments fixed, established, and determined from time to time, as hereinafter provided.

(iii) A one-time Assessment for working capital for the Association payable as provided in the By-Laws of the Association.

In addition, each Owner, as a member of the PSA and pursuant to the PSA Declaration, hereby covenants and agrees to pay assessments levied by the PSA, either directly or through the Association, for Common Expenses for services provided to the Association or to the Owners by the PSA and for the maintenance, repair, operation and improvement of certain Common Areas and Community Facilities (as defined in the PSA Declaration) for the mutual use, benefit, and enjoyment of all PSA members.

B. Rule on Contiguous Lots Having One (1) Owner. Where one (1) Owner owns two (2) contiguous Lots used for one (1) single dwelling, he shall be deemed to own one (1) single Lot for the purpose of determining his share of the annual Assessment and any special Assessments levied by the Association, as long as the Lots remain improved with one (1) single dwelling.

C. Liability for Assessments. Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien upon each Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

D. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth all anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves as the Board of Directors deems appropriate for periodic repair and replacement of the Easement Area, Common Property and Common Area. A copy of this budget shall be delivered to each Owner within thirty (30) days prior to the beginning of each fiscal year of the Association. Notwithstanding anything contained in the Declarations to the contrary, during the period that the Developer is in control of the Association, no allowance for contingencies or reserves are required to be assessed, levied, collected or held by the Association.

E. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of a majority of the Owners, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

F. Fiscal Year; Date of Commencement of Assessments; Due Dates. The fiscal year of the Association shall be the calendar year and may be changed from time to time by action of the Association. The annual Assessments on each Lot in Fairway Knoll shall commence on the first day of the first month following the month in which Declarant first conveys ownership of any Lot to an Owner; provided, that if any Lot is first occupied for residential purposes prior to being conveyed by Declarant, full Assessments shall be payable with respect to such Lot commencing on the first day of the first month following the date of such occupancy. The Declarant shall have the right, but not the obligation, to make up any deficit in the budget for the Common Expenses for any year in which Declarant controls the Association, subject to its right to be reimbursed therefor as provided herein. The first annual Assessment shall be made for the balance of the fiscal year of the Association in which such Assessment is made and with respect to

particular Lots shall become due and payable on the date of initial transfer of title to a Lot to the Owner thereof. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Board of Directors may from time to time by resolution authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments.

G. Duties of the Association.

(i) The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept in the office of the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. Except as may be otherwise provided in the Association's By-Laws, the Association shall cause financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives. Notices of the amounts of the annual Assessments and the amounts of the installments thereof shall be sent annually within thirty (30) days following the determination thereof. Notices of the amounts of special Assessments shall be sent as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(ii) The Association shall promptly furnish upon request to any Owner, prospective purchaser, title insurance company, or Mortgagee a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to any Lot in which the requesting party has a legitimate interest. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(iii) The Association shall notify any Mortgagee from which it has received a request for notice: (a) of any default in the performance of any obligation under this Declaration by any Owner which is not cured within sixty (60) days; (b) of any condemnation or casualty loss that affects either a material portion of Fairway Knoll or the Lot securing its mortgage; (c) of any lapse, cancellation, or material modification of any insurance policy or fidelity bond required to be maintained by the Association; and (d) and proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declarations.

H. Non-payment of Assessments; Remedies of Association.

(i) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(ii) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum and the Association

may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year, except that so long as the Declarant controls the Association, Declarant may, in its sole discretion, make up such deficit; provided, however that Declarant shall be reimbursed by the Association for such funded deficits, together with interest at 10% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to Owners. Thereafter, such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special assessments for such purpose, at the option of the Association. After Declarant turns over control of the Association as required herein, in the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, a Pro-rata Share of such excess shall be a credit against the Assessment(s) due from each Owner for the next fiscal year(s); provided, that Declarant shall first be reimbursed for deficits previously paid as required above before such excess shall be so credited to Owners.

J. Initial Assessments. During the first year following the date of recordation of the Declaration for Fairway Knoll, the total Assessments per Lot per month shall not exceed Fifteen Dollars ($15.00). In each year thereafter, the total Assessments per Lot per month shall not be increased by more than the twelve percent (12%) over monthly assessment in effect for the prior year, until such time as the Declarant relinquishes control of the Association. In no event shall the annual Assessments exceed Thirty Dollars ($30.00) per month per Lot without the approval of a majority of the Owners; provided, however, that said maximum amount may be increased by no more than five percent (5%) per year by the Board of Directors without such consent.

K. Notice and Quorum for Any Action to Increase Assessments. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Associations shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast fifty percent (50%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be twenty-five percent (25%) of Owners or of proxies. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Nothing contained in this paragraph shall be construed to limit the ability of the Developer or the Board of Directors to increase Assessments up to the amounts permitted by paragraph 4(J) hereof.

L. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

5. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including Developer, Association and any Owner within Fairway Knoll, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for

damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. Government Enforcement. The Monroe County Plan Commission, its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Plan Commission; provided further, that nothing herein shall be construed to prevent the Plan Commission from enforcing any provisions of the Subdivision Control Ordinance, as amended, or any conditions attached to approval of the plats of Fairway Knoll by the Plan Commission.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

6. EFFECT OF BECOMING AN OWNER. The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of the such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

7. TITLES. The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

8. DURATION AND AMENDMENT. This Supplemental Declaration shall be effective for an initial term of twenty (20) years and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless as of the end of any term both the Owners of ninety percent (90%) of the Lots and the Mortgagees of at least ninety percent (90%) of the Lots vote to terminate this Supplemental Declaration, in which case this Supplemental Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Supplemental Declaration shall be perpetual unless otherwise expressly indicated herein.

A. The Association shall have the right to amend this Supplemental Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors, and the subsequent approval of such amendment by both the Owners of at least seventy-five percent (75%) of the Lots and ninety percent (90%) of the Mortgagees; provided, however, that any such amendment of this Declaration shall require prior written approval of the Developer so long as Developer owns any Lots within Fairway Knoll. Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, and by Developer when their approval is required, setting forth facts sufficient to indicate compliance with this paragraph, including as an exhibit or addendum thereto a certified copy of the minutes of the Association meeting at which the necessary actions were taken, and such amendment shall not be effective until recorded in the office of the Recorder of Monroe County.

B. Developer hereby reserves the right to make such amendments to this Supplemental Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring this Supplemental Declaration of Fairway Knoll into compliance with the requirements of any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within Fairway Knoll; provided that Developer shall not be entitled to make any

amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of this Supplemental Declaration to any Owner or substantially increases the obligations imposed by this Supplemental Declaration on any Owner. Declarant further reserves the right to make such amendments to this Supplemental Declaration as may be deemed necessary or appropriate by Developer to the same extent as the Developer may make amendments to the Plat Declaration pursuant to Section 11(C) of the Plat Declaration.

C. Subject to the other requirements of this paragraph 8, unless at least two-thirds (2/3) of the Mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Developer) of the Lots have given their prior written approval, the Association shall not be entitled to:

(i) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(ii) by act or omission change, waiver or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of the residences, the exterior maintenance of the residences, the maintenance of the Easement Area, or the upkeep of lawns and plantings in the Development;

(iii) use hazard insurance proceeds for losses to the Easement Area other than for the repair, replacement or reconstruction of the Easement Area.

9. RIGHTS OF MORTGAGEES. Except to the extent otherwise provided in paragraph 4(L), no breach of this Supplemental Declaration shall defeat or render invalid the lien of any mortgage now existing or hereafter executed upon any portion of the Development; provided, however, that if all or any portion of said Development is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to this Supplemental Declaration. Notwithstanding any other provision of this Supplemental Declaration, neither the Owners nor the Association shall have any right to make any amendment to the Declarations or Articles and By-Laws of the Association which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Development at the time of such amendment.

10. SEVERABILITY. Every provision of this Supplemental Declaration is hereby declared to be independent of, and severable from, the other provisions hereof and of and from every combination of the provisions hereof. Therefore, if any of the provisions hereof shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the provisions hereof.

IN WITNESS WHEREOF, witness the signature of Developer this 19th day of January, 1989.

QUALITY VILLAGE BUILDERS, INC.

By: _____
(Signature)

Max R. Kendall Pres.
(Printed Name and Title)

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared MAX R. KENDALL, the PRESIDENT of Quality Village Builders, Inc., an Indiana corporation, who acknowledged execution of the foregoing Supplemental Declaration of Covenants and Restrictions as such officer acting for and on behalf of said corporation, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 19th day of January, 1989.

Kimberly D. Henry
Signature

KIMBERLY D. HENRY
Printed Name NOTARY PUBLIC

My Commission Expires:

2/19/91

My County of Residence:

MARION

NOTARY PUBLIC STATE OF INDIANA

This instrument was prepared by Jeffrey D. Linton, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.

EXHIBIT A

A part of the Northwest Quarter of Section 22, and a part of the Northeast Quarter of Section 21, Township 7 North, Range 1 West, Monroe County, Indiana, and being part of "Parcel B" in Deed Record 294, pages 414 and 415 and also being page 3 of 13 and 4 of 13 of a quitclaim deed from William F. Kirtley to Pointe Development Company as recorded in Deed Record 294, pages 411 through 424, in the office of the Recorder of Monroe County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of the Northwest Quarter of Section 22, thence North 89 degrees 46 minutes 58 seconds West along the south line of said Northwest Quarter 2174.83 feet; thence leaving said south line North 00 degrees 13 minutes 02 seconds East 1041.20 feet to the point of beginning; thence South 3 degrees 38 minutes 20 seconds West 50.08 feet; thence North 89 degrees 46 minutes 58 seconds West 449.77 feet; thence South 00 degrees 10 minutes 07 seconds West 396.74 feet; thence North 44 degrees 17 minutes 06 seconds West 286.39 feet; thence North 18 degrees 36 minutes 39 seconds West 298.51 feet; thence North 00 degrees 11 minutes 58 seconds West 547.22 feet; thence North 74 degrees 41 minutes 57 seconds East 95.41 feet to a non-tangent curve the radius point of which bears South 15 degrees 18 minutes 02 seconds East 3789.72 feet; thence along said curve 158.11 feet; thence South 49 degrees 43 minutes 24 seconds East 575.00 feet; thence South 13 degrees 23 minutes 56 seconds East 290.00 feet to the point of beginning, containing 10.73 acres, more or less.

008683

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RECORDED
A.M. 11:01 P.M.
JUL 23 1990
RECORDER MONROE CO., IN

FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS OF FAIRWAY KNOLL

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS OF FAIRWAY KNOLL ("First Amendment") is made this 16 day of July, 1990 by Quality Village Builders, Inc., an Indiana corporation (hereinafter referred to as "Declarant"), and

WITNESSES:

WHEREAS, Declarant executed the original "Declaration of Covenants, Easements and Restrictions of Fairway Knoll" (the "Declaration"), which Declaration was recorded in the office of the Recorder of Monroe County, Indiana on January 24, 1989 in Miscellaneous Book 190, at pages 73–83; and

WHEREAS, Declarant supplemented the Declaration by executing a "Supplemental Declaration of Covenants and Restrictions of Fairway Knoll" (the "Supplemental Declaration"), which Supplemental Declaration was recorded in the office of the Recorder of Monroe County, Indiana on January 24, 1989 in Miscellaneous Book 190 at pages 84–94; and

WHEREAS, the Declaration and Supplemental Declaration were made in connection with that certain parcel of real property located in Monroe County, Indiana, the plat of which was recorded in the office of the Recorder of Monroe County, Indiana on January 23, 1989 in Plat Book 8, pages 220–221 (the "Development"); and

WHEREAS, Section 11(C) of the Declaration permits the Declarant to amend the Declaration in order to cure any ambiguity, supply any omission, cure or correct any defect or inconsistent provision, or to insert such provisions clarifying matters or questions arising under the Declaration as the Declarant may deem to be necessary or desirable and which are not contrary to or inconsistent with the Declaration and/or to amend or modify the Declaration in any manner which in the reasonable opinion of the Declarant does not adversely affect in any material respect the rights of any Mortgagee or Owner (which terms are defined in the Declaration), nor which substantially impairs the benefits of the Declaration to any Owner or substantially increases the obligations imposed by the Declaration on any Owner; and

WHEREAS, Declarant now desires to clarify the Declaration pursuant to Section 11(C) thereof to cure an ambiguity and/or supply an omission existing in Section 3(A) of the Declaration which relates to minimum living areas for single family residences which may be constructed within the Development.

NOW, THEREFORE, Declarant hereby makes this First Amendment to the Declaration, and the same is incorporated into said Declaration for the purposes of amending Section 3(A) thereto, such amendment being made to clarify matters arising under the Declaration and to cure an ambiguity relating thereto, as follows:

1. Pursuant to the provisions of the Declaration, the Supplemental Declaration and this First Amendment, the provisions of Section 3(A) of the Declaration are hereby amended to provide that all multi-level dwellings shall have, at a minimum, two thousand (2,000) square feet of living area, exclusive of basements, porches, garages, carports and accessory uses, but inclusive of the living area contained within a walkout lower level for a particular dwelling where at least one exterior wall of such lower level of the dwelling is exposed to the outside.

IN WITNESS WHEREOF, the undersigned has caused this First Amendment to the Declaration of Covenants, Easements and Restrictions of Fairway Knoll to be executed as of the date first above written.

QUALITY VILLAGE BUILDERS, INC.

By: _____
Max R. Kendall, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Max R. Kendall, the President of Quality Village Builders, Inc., who acknowledged the execution of the foregoing instrument as such officer acting for and on behalf of said corporation, and who, having been duly sworn, stated that he did so with proper authority from the Board of Directors of said corporation and that all corporate action necessary for the execution of such instrument has been taken and done.

Witness my hand and Notarial Seal this 16th day of July, 1990.

Kimberly D. Henry
(signature)

KIMBERLY D. HENRY
(printed name) NOTARY PUBLIC

My Commission Expires:

2/19/91

My County of Residence:

Marion

This instrument was prepared by David H. Eyke, Ice Miller Donadio & Ryan, One American Square, Box 82001, Indianapolis, Indiana 46282. Telephone: (317)236-2100.