

Declaration, Restrictions and Covenants *of* **Quail Hollow West Homeowners Association, Ltd**

This Declaration, made and entered into to be effective as of the 8th day, December, 1980, by Quail Hollow Estates Associates, a North Carolina limited partnership with its principal office located in the City of Charlotte, North Carolina, for itself, its successors and assigns, hereinafter called "Declarant".

Witnesseth:

WHEREAS, Declarant is the owner of approximately 14.54 acres of land located in the City of Charlotte, County of Mecklenburg, State of North Carolina, more particularly describe on the attached "Exhibit A" which is incorporated herein by reference, said property being herein referred to as the "master Site"; and

WHEREAS, Declarant contemplate developing the master Site by erecting there fourteen(14) multi-family, residential buildings containing a total of no more than 108 single-family residential units and submitting said buildings and units to the provisions of Chapter 47A of the General Statutes of North Carolina entitled "Unit Ownership Act", herein called "Act"; and

WHEREAS, while Declarant at this time submits only that portion of the Master Site described on the attached "Exhibit B" to the Act, Declarant reserves the option but not the obligation, to amend this Declaration from time-to-time via "Supplemental Declarations" to submit other portions of the Master Site to the Act and the terms and conditions set forth herein without the consent of any then owners of residential units within portions of the Master Site previously submitted and without the consent of the mortgagees or trustees in deeds-of-trusts from such owners and without the consent of any other lien claimants or judgment creditors or others claiming any interest in any such residential units at the time such additions are made so long as all such amendments to this declaration for the purpose of adding additional properties to the terms and conditions hereof are made by the Declarant in strict conformity with the terms hereof, particularly (but not by limitation) the provisions contained in Article XII hereof;

Now, therefore, pursuant to the matters set forth in the premises, the Declarant does hereby publish and declare that all of the property described in the attached Exhibit B, identified as Phase I, and all that property described in Supplementary Declarations hereafter recorded as herein provided and made subject to this Declaration is held, and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following restrictions, covenants, conditions, uses limitations, and obligations, all of which are declared and agreed to be in furtherance of a general scheme of development of such property and the division thereof into condominium units and shall be deemed to run with the land and

shall be a burden and benefit to the Declarant, its successors and assigns, and any person acquiring and owning an interest in the real property and improvements, their grantees, successors, heirs, administrators, devisees, and assigns. **EVERY GRANTEE OF ANY INTEREST IN SUCH PROPERTY BY THE ACCEPTANCE OF A DEED OF OTHER CONVEYANCE OF SUCH INTEREST, WHETHER OR NOT SUCH DEED OR OTHER CONVEYANCE OF SUCH INTEREST SHALL BE SIGNED BY THE GRANTEE OR WHETHER OF NOT SUCH PERSON SHALL OTHERWISE CONSENT IN WRITING, SHALL TAKE SUBJECT TO PROVISIONS OF SAID ACT, THIS DECLARATION AND SUPPLEMENTARY DECLARATIONS AND SHALL BE DEEMED TO HAVE ASSENTED TO THE SAME.**

ARTICLE I

Description of Land — Name

1.1 Property Submitted to Act — Name: That portion of the Master Site which is by these presents hereby submitted to the Act is more particularly described on shall henceforth be known as “Phase I of Quail Hollow West” and is sometimes referred to herein as “Phase I”.

1.2 Additional Land — Names: Declarant reserves the option but not the obligation to submit additional portions or all of the remaining land within the Master Site to the terms and conditions of this Declaration by Supplemental Declaration(s) executed solely by the Declarant and filed for record in the office of the Register of Deeds of Mecklenburg County. Provided, such additions must be made in strict accord with the provisions set forth under Article XII hereof and in no event may Declarant submit any further land to the terms of this Declaration which is not contained within the Master Site. All additional properties submitted to the Act and this Declaration shall successively be named Phase II, III, etc. of Quail Hollow West Condominium.

ARTICLE II

Description of Buildings

2.1 Names — Locations: Phase I of Quail Hollow West contains three (3) non-contiguous, multi-unit buildings. Each building is designated as Building No. 1, 2 or 3 as shown on the attached “Exhibit C” which is incorporated herein by reference, said Exhibit being that survey by Robert E. Stephenson, Registered Surveyor, entitled “Quail Hollow West — Phase I” dated the 5th day of May, 1980, as revised through the 8th day of December, 1980, made to Exhibit C for the exact location of each building, the dimensions of same and units contained within each building.

Declarant contemplates constructing eleven (11) additional multi-family buildings on the remainder of the Master Site and submitting all of same to the terms of the Act and this Declaration. The name of each subsequent building submitted to this Declaration shall be in consecutive, numerical order beginning with Building No. 4. The locations, dimensions and number designations shall be shown on surveys attached to Supplemental Declarations subsequently filed with respect to such additional buildings.

2.2 Descriptions: Each building submitted to the Act and this Declaration is or will be erected without basement and is or shall be two stories in height with attic space. The three buildings now submitted to the Act and this Declaration in Phase I are constructed upon a concrete slab. All subsequent buildings will be constructed either upon a concrete slab or with masonry foundation wall and wood timbers supported by masonry piers. Each building shall contain no less than four (4) nor more than eight (8) single-family, residential units. The architectural style of each building in Phase I is identified on Exhibit C and fully described in the attached Plans. Each additional building submitted to the Act and this Declaration shall be architecturally compatible with the architectural styles of the buildings in Phase I.

2.3 Principal Materials: With respect to the buildings in Phase I, the foundations are constructed on a concrete slab with brick and block, the exteriors are constructed of brick, wood and composition sidings and the roofs are constructed with asphalt shingle (composition roof). Each additional building submitted to the Act and this Declaration shall be constructed of the same or substantially similar or better building materials.

ARTICLE III

Units

3.1 Description: As used in this Declaration and all Supplemental Declarations, the word "unit" shall have the same meaning as said word has with reference to the Act. Each unit shall include all the space within the boundaries thereof. Each unit is bounded both as to horizontal and vertical boundaries by the unexposed facing of drywall (the facing next to studs or structural portions of buildings) and unexposed facing of finish moulding or paneling of its walls and ceilings, and the unfinished upper surface of floors. Attics are part of the Common Areas and not parts of the units. It is the intent hereof that the unit will include all interior drywall, paneling and molding, and any surface finish, or wallpaper and all finished flooring, such as exposed wooden flooring, vinyl or linoleum floor covering, matting and carpeting, but will not include studs, supports and wall insulation, concrete slabs, floor or ceiling joists. Provided, interior, non-weight bearing walls located within the exterior walls shall be considered part of the unit within which they are located. Each unit shall be deemed to include

the interior and exterior of any and all doors, windows, sliding glass doors, and other closures. Included as part of a unit are all door locks or other security or mechanical devices which control the opening and closing of doors and windows. Included also as part of a unit are the following: (a) the heating and air conditioning systems serving the unit, wherever located; (b) the electrical wiring and service system, wherever located, from the service meter to the place where it connects with all uses within the unit; (c) the plumbing for water service from the last junction with a water line serving another unit to its end use in a unit; and (d) the drainage or sewer plumbing from its collection point in a unit to their junction with a line servicing other units. In interpreting this Declaration, the actual physical boundaries of a unit as originally constructed, or of a unit reconstructed in substantial compliance with the original Plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in this Declaration or the original Plans for same, regardless of settling or lateral movement of the building, and regardless of minor variances between boundaries shown on the Plans, and those of the unit.

3.2 Designations: Each unit will be designated and identified by its street number assigned when building permits for same are obtained. The unit numbers of the units submitted to the Act by this Declaration are as shown on the attached Exhibit C.

3.3 Locations - Access to Common Areas: The location of each unit submitted(to the Act by this Declaration is as shown on Exhibit C. Each unit has access to the Common Area via connection with the hallway (a Common Area) and the patio contiguous thereto (a Limited Common Area), all as shown on Exhibit C.

3.4 Square Footages Rooms - Lay Out: Each unit in Phase I contains approximately 1,664 square feet of heated living area and all subsequent units shall contain not less than 1,400 nor more than 1,700 square feet of heated living area. The lay out, square footage of heated living area and other architectural details of each unit are as shown on those attached plans and specifications by Jack T. Gray, North Carolina Registered Architect, entitled "Quail Hollow West" dated October 24, 1979, as revised through the 23 day of April, 1980, consisting of Sheets "A-1" through "A-20 , inclusive, which are identified as "Exhibit 'F", incorporated herein by reference, and referred to herein as "Plans" or "Exhibit F".

With respect to the units in Phase I, the units are either of Type "1", "1R", "2", or "2R", as listed on the attached Exhibit D and as more particularly described on the attached Plans, both filed contemporaneously herewith. The lay out of each type of unit in Phase I is as follows:

- a. Types "1" and "1R" units contain the following: On the first floor there shall be a foyer, combination living and dining room, kitchen with dinette, half-bath, utility room, room for heating and air conditioning equipment, pantry closet and clothes closet. On the second floor will be located two bedrooms, two full baths, two clothes closets, one linen closet and hallway.

b. Types "2" and "2R" units contain the following: The first floor shall contain the same rooms as in Types "1" and "1R". The second floor shall contain three bedrooms, two full baths, three regular closets, one linen closet and hallway. Each unit in subsequent phases annexed to this Declaration shall have not less than two (2) nor more than three (3) bedrooms and shall be compatible, architecturally and otherwise, with the units in Phase I. The location, type, rooms and lay-out of each unit hereafter annexed to this Declaration shall be as described in the Supplemental Declaration pertaining thereto.

3.5 Repair - Upkeep: Each unit owner, at his or her expense, shall keep his or her unit or units in good repair and in a neat and clean condition. In the event a unit owner defaults in this covenant and does not cure the default within thirty (30) days after request by the Association, the Association shall thereafter be authorized to enter the subject unit and make the necessary repairs or perform the necessary cleaning and the costs thereof shall be added to and become part of that unit owner's monthly assessment next following the completion of such repairs or cleaning or both, as the case may be.

3.6 Easement: The Association or its agent (see Article IX hereof) shall have access to each unit from time to time during reasonable working hours, upon oral or written notice to its owner, as may be necessary for the maintenance, repair, or replacement of any of the Common Areas and Facilities. The Association or its agent shall also have access to each unit at all times without notice as may be necessary to make emergency repairs to prevent damage to the unit, the Common Areas and Facilities or to any other unit.

3.7 Certificate of Architect or Engineer: Prior to the conveyance of each unit by DECLARANT, there shall be filed for record an amendment to this Declaration containing a verified statement of a Registered Architect or Licensed Professional Engineer certifying that the Plans theretofore filed, or being filed simultaneously with such amendment, fully depict the location, lay out, ceiling and floor elevations, unit number and dimensions of each unit, as built, including the unit to be conveyed.

ARTICLE IV

Common Areas and Facilities

4.1 Description: "Common Areas and Facilities" or "Common Areas" shall consist of and be composed of all of the real estate committed to the Act and this Declaration other than the units, including, without limitation:

a. The land on which the buildings are erected and all the land surrounding the buildings that lies within the boundaries of the land from time to time subject to this Declaration, and exterior walls, roofs, interior weight bearing walls (except the drywall, paneling, molding and floor covering), ceilings,

- floors, etc., and every part of the buildings and property other than the units;
- b. The foundation and structural members, including columns, girders, beams and supports;
 - c. All installations designed and intended for common use or to serve more than one unit such as, but not limited to, electrical service, gas and plumbing, whether located in Common Areas or in units, excluding from such installations all parts thereof, and all items affixed or connected thereto not designed or intended for common use or use by more than one unit;
 - d. Easements for access, maintenance, repair, reconstruction, or replacement of the above-mentioned Common Areas and all other services necessary or convenient to the existence, maintenance, safety and use of the Common Areas and units;
 - e. The yards, landscaping, fences, non-public roads and driveways, parking areas, walks, retaining walls, walls enclosing patios, and all paved areas;
 - f. All maintenance and recreational areas; and
 - g. Any portion of the property shown and designated on the Plans as Common Areas or Limited Common Areas.

4.2 Use of Common Areas: Each unit owner shall have the right to use the Common Areas in accordance with the purposes for which they are intended so long as such use does not hinder the exercise of or encroach upon the rights of other unit owners. The Association or its agent shall, if any question arises, determine the purpose for which a part of the Common Areas is intended for use. The Association or its agent shall have the right to promulgate rules and regulations limiting the use of Common Areas to unit owners and their guests as well as provide for the exclusive use of a part of the Common Areas by a unit owner and his or her guests for special occasions, which exclusive use may be conditioned upon, among other things, payment of a fee. Any unit owner may delegate, in accordance with the provisions of this Declaration and the By-laws and reasonable rules and regulations of the Association or its agent his or her right to use Common Areas to the immediate members of his or her family living in the unit, to a limited number of guests, or to tenants who reside in his or her unit. Provided, those portions of the Common Areas entitled "Limited Common Areas" are limited to the use by particular unit owners as hereinafter set forth in Article V hereof.

4.3 Upkeep and Repair of Common Areas: The Association shall maintain and keep in good repair all of the Common Areas except for the cement slabs of the patios which are located within Limited Common Areas and as to such cement slabs, the upkeep and repair of same shall be the responsibility of the owners of the units to which they are limited in use. Provided, however, nothing herein is intended to limit the Umbrella Association referred to in ARTICLE VI hereof with respect to its rights, responsibilities, duties and obligations regarding the care and upkeep of the open or unimproved portions of the Common Areas of Quail Hollow West.

4.4 Insurance: The Association shall procure and maintain adequate fire and extended coverage insurance to carry out its duties with respect to the upkeep and repair of the Common Areas in the amounts as more particularly described on the By-laws attached hereto as Exhibit E and incorporated herein by reference. In addition, the Association shall procure and maintain adequate liability insurance for the benefit of itself and all unit owners in the manner prescribed in said By-laws.

4.5 Easements:

- a. Structural Support: Every portion of a unit or the Common Areas which contribute to the structural support of another unit shall be burdened with an easement of structural support.
- b. Utilities: There shall be a general easement upon, across, above and under all of the Common Areas and units for ingress, egress, installation, replacing, repairing, and maintaining all utilities including, but not limited to, water, sewer, telephone and electricity or other community service, (e.g., cablevision, master television antenna system, security system, etc., if installed) which the DECLARANT, or the Association, has installed or might determine to install. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles and other necessary equipment on the property submitted to this Declaration and to affix and maintain wires, conduits, cables, and the like on, above, across, under and through the roofs and exterior walls of the units. Should any party furnishing any service covered by this general easement request a specific easement by separate recordable document, DECLARANT or the Association, as the case may be, shall have the right to grant such easement under the terms hereof.
- c. General to Association: There shall be a general easement to the Association, its directors, officers, agents and employees (including, but not limited to, any manager employed by the Association) to enter upon the Common Areas and units or any portions thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised with respect to units only during normal business hours and then, whenever practicable, only upon advance notice to and with the permission of the unit owner directly affected thereby.

4.6 Improvements to Common Areas: The Association shall have the authority to make such improvements to the Common Areas as it deems in the best interest of the unit owners so long as such improvements are made in strict conformity with the provisions of said By-laws.

4.7 Percentage Ownership: All of the Common Areas and Facilities shall, subject to the terms of this Declaration and all Supplemental Declarations, be owned by the unit owners as tenants-in-common. The percentage interests of the unit owners in same shall be determined by the approximate relative values of the units as and when the units are submitted to the terms of the Act and this Dec-

laration. ' These percentage interests shall only be changed as and when Supplemental Declarations adding additional units are filed in accord with the provisions of this Declaration.

All of the units now submitted and hereafter submitted to the Act and this Declaration shall have approximately the same relative values. Accordingly, the percentage interest appurtenant to each unit in Phase I (a total of 22 units) is an undivided one-twenty-secondth ($\frac{1}{22}$) interest. This percentage interest appurtenant to each unit in Phase I shall automatically be reduced when other units are submitted to the Act and the Declaration. The denominator of the stated $\frac{1}{22}$ undivided interest shall increase automatically according to the number of units hereafter submitted the Act and this Declaration. Only a total of 92 units may be submitted to this Declaration. Accordingly, the maximum percentage interest appurtenant to any unit is a $\frac{1}{92}$ undivided interest and the minimum percentage interest in the Common Areas and Facilities appurtenant to each unit may be $\frac{1}{22}$ interest.

The percentage or fractional interest assigned to each unit by this Declaration and by Supplemental Declarations submitting additional units to this Declaration shall be inseparable from and always appurtenant to the unit to which it is assigned. Said percentage or fractional interest appurtenant to each unit may not be assigned, conveyed, encumbered or in any manner separated from ownership of the unit and each grantee or lessee of each unit shall automatically acquire the percentage or fractional interest in the Common Areas and Facilities assigned to the unit purchased, mortgaged or leased even though the deed, deed-of-trust, lease or other instrument conveying a portion or all of the title to said unit does not specifically refer to the percentage or fractional interest appurtenant to same or refers to an inaccurate percentage or fractional interest. The Common Areas and Facilities shall not be subject to partitioning so long as the same are subject to the Act and this Declaration.

ARTICLE V

Limited Common Areas and Facilities

5.1 Description: The "Limited Common Areas and Facilities" or "Limited Common Areas," which are part of the general Common Areas, consist of the automobile parking space or spaces, if any, assigned to each unit and the patio assigned to each unit.

With respect to the units in Phase I, the Limited Common Areas appurtenant each unit are as shown on Exhibit C attached hereto.

5.2 Exclusive Use: Each unit owner and members of his family living in said unit and his or her invitees or tenants shall have the exclusive use of the Limited Common Areas appurtenant to his or her unit. Provided, the same shall be used only for the purpose for which they are designed to be used and the use of same shall be subject to the terms of the By-laws attached to this Declaration

and reasonable rules and regulations as adopted from time to time by the Association.

ARTICLE VI

Umbrella Association

6.1 Description: Phase I along with all other portions of the Master Site which are committed to the Act and this Declaration is or will be made subject to those "COVENANTS, CONDITIONS AND RESTRICTIONS" recorded in Book 3360 at page 1 in the office of the Mecklenburg Public Registry, the same being incorporated herein by reference. Said Covenants, Conditions and Restrictions affect a large area-of land contiguous to and in the vicinity of the Master Site. Quail Hollow Homeowners Association, Inc. was formed to administer and does administer a portion of the planned development within which portion all property now submitted and hereafter submitted to this Declaration are or will be contained.

6.2 Privileges of Unit Owners: All unit owners shall be members of and shall enjoy all of the privileges afforded by Quail Hollow Homeowners' Association, Inc., including but not limited to the benefit of using the recreational facilities now provided by said Association.

6.3 Unit Owners' Obligations: Each unit owner shall promptly pay all assessments and other charges made by Quail Hollow Homeowners' Association, Inc. against the unit he or she owns. The payment of such charges and assessments to that Homeowners' Association shall be the direct responsibility of each unit owner and the Association formed to administer this Condominium as set forth in Article IX hereof shall not be responsible for paying any such assessments or charges.

6.4 Non-use: The non-use of any facility or amenity provided by Quail Hollow Homeowners' Association, Inc. shall not exempt such unit owner from the responsibility of paying all valid assessments and charges made by said Association against his or her unit.

6.5 Title: Each unit owner accepts the deed to his or her unit with the full understanding that the title to his or her unit is subject to the terms and conditions set forth in those Covenants above referred to recorded in Book 3360 at page 1 in the Mecklenburg Public Registry and shall abide by and be subject to all of the terms and conditions therein contained and as duly amended from time-to-time.

ARTICLE VII

Restrictive Covenants

7.1 Content: All provisions of this Declaration and all attachments hereto and all of the provisions of all Supplemental Declarations and all attachments thereto shall be construed to be covenants running with the land, and with every part thereof and interest therein including, but not limited to, every unit and the appurtenances thereto; and each and every provision of said instruments shall bind and inure to the benefit of all unit owners and claimants of the land and any part thereof or interest therein and their heirs, executors, administrators, successors and assigns.

7.2 General Scheme of Development: The documents referred to in the immediate preceding paragraph constitute a general scheme of development for all of the unit owners of units submitted to the Act and this Declaration and may be enforced by any one or more unit owners.

7.3 Single-Family Residential Use: All units submitted to the Act and this Declaration shall be used solely for single-family residential use only and shall in no event be used for business purposes.

7.4 Severability: Invalidation of any covenant, condition, restriction or other provision of this Declaration or any attachments hereto or of any Supplemental Declarations or any attachments thereto shall not affect the validity of the remaining portions which shall remain in full force and effect.

ARTICLE VIII

Assessments - Liens

8.1 Authority: The Association referred to in Article IX hereof shall have the authority to establish, increase or decrease regular and special assessments against each unit in accordance with the provisions of the attached By-laws which the Association deems necessary, reasonable and appropriate to maintain, repair, replace and improve the Common Areas and Facilities, pay for the cost of adequate insurance coverage's and pay for the operation of the Association.

8.2 Lien and Personal Obligation: Each assessment provided for in this Article, together with interest from delinquent date at a rate or dollar figure set by the Association not to exceed the amounts provided in Section 8.3 hereafter or the maximum allowed by law and collection costs including reasonable attorneys fees, shall be a charge on and continuing lien upon the unit against which the assessment is made when a notice of such lien has been filed of record in the Office of the Clerk of Superior Court for Mecklenburg County, North Carolina, in

the manner provided in Chapter 44 of the North Carolina General Statutes, provided such notice of lien shall not be filed until such sums assessed remain unpaid for a period of thirty (30) days after the same shall become due. Such notice of lien shall secure also all assessments against the unit becoming due thereafter until the 1: has been satisfied. In addition, each unit owner shall be liable personally for any assessment against his unit coming due or payable while he is the owner of such unit. A grantee of a unit shall be liable, jointly and severally, with the grantor for all unpaid assessments against such unit due and owing at 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. Any unit owner or grantee a unit owner shall be entitled to a statement from the Association setting forth account of the unpaid assessments against the unit owner and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth.

8.3 Effect of Nonpayment of Assessment, Remedies of Association: In the event that any assessment installment is not paid within thirty (30) days after due date, the Association may, at its option, declare the entire unpaid annual assessment immediately due and payable, and such unpaid assessment shall bear interest from the date of acceleration, which shall be effective upon the sending of notice to the owner of the unit concerned regardless of the receipt thereof, such interest to be at a rate determined by the Association, but not in excess of the then current "prime rate" established by area banks or the maximum allowed by law, whichever is less. In say event, any assessment installment not paid wit thirty (30) days after its due date shall bear interest from the due date at a rate determined by the Association, but in no event shall the interest rate exceed the then current "prime rate" established by area banks, or the one time charge of Five Dollars (\$5.00) whichever is greater; except that such rate shall not exceed the maximum allowed by law. The Association may bring an action at law against the owner personally obligated to pay the assessment, and interest, reasonable attorney's fees and costs of such action or foreclosure shall be added to the amount of such assessment.

Notwithstanding anything hereinbefore stated in this section, during any period in which an owner shall be in default in payment of any installment of an annual, special or other periodic assessment levied by the Association, the voting rights and the right to the use and enjoyment of the Common Areas and Facilities or any services, including without limitation, water and sewerage disposal, or facilities which the Association provides may be suspended by the Association until such assessment is paid. Prior to the termination of services, voting rights, or use of the facilities for failure to pay assessments, the defaulting owner shall have the right to request the President or Secretary of the Association to convene a special meeting of the Board of Directors of the Association and present his or her position to said Board at said meeting or have the same presented by an attorney or representative of his or her choice. The Board of Directors meeting shall be convened within sixty (60) days' notice following the

request by a defaulting owner. Said termination, if any, shall be decided by the Board after such meeting.

8.4 Priority of Assessment Lien: The lien of the assessments provided for in this section shall be prior and superior to all other liens except (a) ad valorem taxes, (b) all sums unpaid on all mortgages recorded prior to the docketing of the assessment lien, and (c) materialmen's and mechanics' liens. The sale or transfer of any unit shall not affect the assessment against such unit; provided, however, the sale of a unit pursuant to the foreclosure sale or execution sale instituted by a superior lien holder shall extinguish the inferior assessment lien against the subject unit, but no such sale or transfer shall relieve such unit from liability of any assessments thereafter becoming due or for any future lien in connection therewith. The Association shall share in the excess, if any, realized by the sale of any unit pursuant to a foreclosure or action instituted by a superior lien holder. Provided, however, that a mortgagee or other purchaser of a unit at a foreclosure sale of such unit or who obtains title to such unit by deed in lieu of foreclosure of such unit, or by any other proceeding in lieu of foreclosure, shall not be liable for and such unit shall not be subjected to a lien for the payment of such assessment which accrued prior to the acquisition of title of such unit by the mortgagee or other purchaser, providing further that such unpaid assessment shall be deemed to be Common Expenses collectible from all of the unit owners including the mortgagee or other purchaser.

8.5 Owner's Non-use: No unit owner may exempt himself or herself from liability for his or her contributions toward Common Expenses and his or her other obligations to the Association by waiver of the use or enjoyment of any portion of the Common Areas and Facilities, or by the abandonment or sale of his or her unit, except that DECLARANT may deduct from its assessment a reasonable amount for use related items not consumed, such as water, sewer and cablevision for any unit owned by it and not occupied.

8.6 Commencement: Each purchaser of a unit from DECLARANT shall commence paying his or her regular monthly assessment as established by the Association on the first day of the calendar month next following the conveyance of such unit. Each regular assessment shall include a reasonable amount to be credited to an insurance escrow fund to the end that the Association will have a sufficient escrow insurance fund on hand when the annual premium dates occur in order to pay for the then coming year's insurance premiums. In addition, each regular monthly assessment shall include an amount sufficient to credit to a reserve for replacement or repair of capital improvements, Reference is made to the attached By-Laws for a more complete explanation of the manner of establishing the regular and special assessments to be assigned to each unit.

8.7 DECLARANT'S Obligations Regarding Assessments: The DECLARANT shall not pay any assessment to the Association with respect to any unit it owns until the first day of the calendar month next following the expiration of ninety (90) days

after completion of the subject unit. Prior to the date when the DECLARANT begins making its payment of regular monthly assessments to the Association, it shall be directly and personally obligated to pay its proportionate share of any repairs and upkeep to the Common Areas and Facilities and its proportionate share of all utility charges. Said "proportionate share", as used herein, shall mean the DECLARANT'S relative share of said expenses as determined by its percentage interest in the Common Areas it owns which is then subject to this Declaration at the time such expenses are incurred. With respect to each completed unit, DECLARANT shall begin making its payment of the regular monthly assessment against such unit to the Association on the first day of the calendar month next following the expiration of ninety (90) days after completion of the subject unit. However, in no event will DECLARANT be responsible to pay to the Association any escrow funds for insurance or capital improvements except beginning with the first day of the calendar month next following one hundred and twenty (120) days after each unit owned by the DECLARANT has been completed. Should the annual premium on any fire and extended coverage insurance or liability policy become due while the DECLARANT is the owner of any unsold units, DECLARANT agrees to pay its proportionate part of such premium after receiving credit for such amounts, if any, which DECLARANT has paid to the insurance escrow fund of the Association following the expiration of said 120 days.

ARTICLE IX

Administration — Bylaws

9.1 Organization: This condominium shall be administered by an incorporated association of the unit owners known as "Quail Hollow West Homeowners, Association, Ltd.". The By-Laws attached to this Declaration as Exhibit E shall be the by-laws of said Association. The Association shall be a non-stock, non-profit North Carolina corporation formed under Chapter 55A of the General Statutes of North Carolina.

9.2 Members: Only the unit owners shall be members of said Association.

9.3 By-laws: The By-laws shown on the attached Exhibit E shall not only be the By-laws of said Association as above indicated but shall also constitute the By-laws which, together with all other condominium documents referred to herein, shall govern the administration of all properties now or hereafter submitted to the Act and this Declaration.

ARTICLE X

Condemnation

10.1 General: Whenever all or any part of the property shall be taken by an authority having the power of condemnation or eminent domain, each owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association. Unless otherwise required by law at the time of such taking, any award made therefor shall be disbursed by the Association as hereinafter provided in this Article.

10.2 Common Areas: If the taking is confined to the Common Areas and Facilities on which no unit is located, the Association shall use the award to restore the remaining Common Areas which are damaged by the taking and shall retain any balance of the award not so used to defray future expenses of the Association. In the event any improvements are located on the Common Areas taken and such improvements do not consist of portions or all of one or more units, the Association shall have the authority, but not the obligation, to restore such improvements.

10.3 Units: If the taking includes one or more units or any part or parts thereof or the Limited Common Areas, or parts thereof, to which a unit has exclusive use then the award shall be disbursed and all related matters, including without limitation, alteration of the Percentage Interest appurtenant to each unit, shall be handled pursuant to and in accordance with the consent of all unit owners expressed in a duly recorded amendment to this Declaration. Such amendments, if any, shall realign the Percentage Interests, establish the method of distributing the condemnation award, and include such other provisions as all of the unit owners deem reasonable and appropriate. Further provided, such amendment shall be executed by the mortgagees of such units and shall not prejudice the creditors or other third parties who have an interest in the condemnation award with respect to their rights, if any, in such award. In the event that such an amendment shall not be recorded within one hundred and twenty (120) days after such taking, then such taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed, whereupon the development will be terminated in the manner hereinafter prescribed.

ARTICLE XI

Termination of Unit Ownership

11.1 Agreement: All property may be removed from the provisions of this Declaration and the Unit Ownership Act, by an instrument to that effect, duly recorded,, approved by all unit owners, provided that the holders of all liens, affecting any of the units, consent thereto or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owner in the property so removed. Upon removal of the property from the provisions of the Act and this Declaration, the property shall be deemed to be owned as tenants-in-common by the unit owners. The undivided interest in the property owned as tenants-in-common which shall appertain to each unit owner shall be the percentage of the undivided interest previously owned by such unit owner in the Common Areas and Facilities as of the date of removal. Notwithstanding anything to the contrary in this Article XI, if the Unit Ownership Act is amended to allow termination of Unit Ownership by less than all of the unit owners and all of the holders of liens, then said amendment of the statute shall control this Declaration; provided that in no event shall the property be removed from Unit Ownership unless approved by the unit owners owning at least Ninety (90%) per cent of the percentage interest in the Common Areas and Facilities, and the holders of Ninety (90%) per cent of the indebtedness of mortgage liens affecting the property.

11.2 Destruction: If two or more buildings then subject to the terms of this Declaration are damaged by fire or other disaster to the extent that the cost of repairing the same would exceed two-thirds (2/3) of the value of all of the remaining buildings then subject to the Declaration immediately preceding the casualty (excluding in such determination the value of all underlying and adjacent land) AND the unit owners who own not less than Seventy-Five (75%) per cent of the total percentage interests in the Common Areas duly resolve not to proceed with repair or restoration, then the condominium form of ownership of said property shall cease. Said "value" and "cost of repairing" shall be determined by the Association in a reasonable, non-arbitrary manner which shall be binding upon all unit owners and others claiming interests in units. The determination not to repair or reconstruct after a fire or other casualty shall be evidenced by a certificate of the Association certifying as to the facts affecting the termination, which certificate shall become effective upon being duly recorded in the Mecklenburg County Registry.

11.3 Tenants-in-Common on Cessation of Condominium Ownership: In the event the unit form of condominium ownership created and to be created by this Declaration and Supplemental Declarations is terminated as a result of condemnation, agreement or destruction, as above set forth, or should such termination result from any other cause, then upon such termination all propert-7 (Units and Common Areas) then subject to the Act and this Declaration immedi-

ately preceding such termination shall be owned by the unit owners as tenants-in-common with each unit owner owning an undivided interest in all of such property in the same percentage interest as he or she owned in the Common Areas immediately preceding the termination. All mortgage liens and other claims against each unit shall automatically affix to the undivided, tenant-in-common percentage interest allocated to the owner of the subject unit upon such termination.

ARTICLE XII

Addition of Land and Units

12.1 DECLARANT: The word "DECLARANT" as used in this Article and elsewhere in this Declaration and as used in all documents now or hereafter filed for record in connection with Quail Hollow West, shall mean Quail Hollow Estates Associates or its successors in fee ownership of all of the remaining portions of the Master Site not then submitted to the Act and this Declaration and the owner of all units not then sold to purchasers for use as residences. At no point; in time may there be more than two DECLARANTS, one which is the owner of all of the unimproved remaining portion of the Master Site not then submitted to this Declaration and one which is the owner of all units previously submitted to the Declaration but not then sold to first purchasers for use as residences.

12.2 Maximum Land and Units: As previously indicated, only portions of the land described on the attached Exhibit A (Master Site) may be submitted to the terms of this Declaration.

12.3 Time Frame: No further land or units not submitted to the Act and Declaration within seven (7) years from date of the filing of this Declaration may be submitted to the terms hereof without the unanimous consent of all then unit owners and the unanimous consent of the owners of all first mortgages and first deeds-of-trusts on all units then submitted to this Declaration.

12.4 Percentage Interests: Upon the submission of additional land and additional units to the terms of this Declaration, the percentage or fractional interests of all of the then unit owners shall be adjusted in strict conformity with the provisions set forth in Section 4.7 of ARTICLE IV hereof.

12.5 Supplemental Declarations: All additional land and units submitted to the Act and this Declaration will be effective upon the execution and recordation of Supplemental Declaration(s) by the DECLARANT in strict conformity with the provisions set forth herein. In the case where the addition is made by the unit owners and their mortgagees as set forth in Section 12.3 of this ARTICLE XII, said instrument shall be executed by all of the then unit owners and all of the own-

ers of first mortgages and first deeds-of-trusts on all then units submitted to the Act.

ARTICLE XIII

Special Provisions Concerning Veteran's Administration, Federal Housing Authority, Entities Formed by Congress and Institutional Lenders

13.1 Approvals by Veteran's Administration, Federal Housing Authority and Congressional Entities: Wherever in this Declaration or in the By-laws consents or approvals of mortgagees having a first mortgage are required for any action, change or amendment to this Declaration or the By-laws and any loan on a unit is guarantee by the Veteran's Administration, the consent or approval of the Veteran's Administration shall also be required before such action, change or amendment shall be effective. The immediate foregoing sentence shall be equally applicable to all first mortgage loans on units which are guaranteed by the Federal Housing Authority and any other entities formed by an act of the United States Congress.

13.2 Lender's Rights: Any mortgagee having a first mortgage on a unit will upon request, be entitled to: (a) inspect the books and records of the Association during normal business hours; (b) receive the annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association (which must be an audited statement at least every three (3) years); and (c) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

ARTICLE XIV

Registered Agent - Address

14.1 Registered Agent - Address: Ralph F. Howey, One Fairview Plaza, 5950 Fairview Road, Charlotte, North Carolina 28210, is hereby designated to receive service of process in any action which may be brought against or in relation to any portion of all of the properties then submitted to this Declaration. Said address may be changed at any time to any other location within Mecklenburg County by the filing of notice of same in the office of the Register of Deeds of Mecklenburg County by said Registered Agent.

14.2 Death, Resignation or Removal of Registered Agent: In the event of the said Agent's death, resignation or removal, his successors shall be appointed by the

Association and shall so be indicated by recording an instrument to that effect in the office of the Register of Deeds of Mecklenburg County, North Carolina.

ARTICLE XV

Amendments

15.1 By Owners: This Declaration may be amended by the vote of the unit owners owning at least a majority of the interest in the Common Areas provided that no such amendment shall be effective until placed in writing, executed, and acknowledged by unit owners owning at least a majority of the Common Areas, and filed for registration in the Mecklenburg County Registry; provided, however, if a larger vote is required to take or refrain from taking a specific action, as set forth in the Act or this Declaration, or the By-laws, no amendment shall be made unless and until the unit owners holding such larger percentage interest in the Common Areas execute such amending instrument. All persons or entities who own or hereafter acquire any interest in the condominium property shall be bound to abide by any amendment to this Declaration, upon the same being passed as provided herein and duly set forth in an amended Declaration, and duly recorded as provided herein. Notwithstanding anything to the contrary contained in this Declaration or the By-laws attached hereto, no change or amendment to this Declaration or the Bylaws shall affect or change the percentages of the undivided interest of each unit owner in the Common Areas, except the change of percentage interest resulting from expansion of the condominium as set out in ARTICLE XII hereof or the change upon consent of all unit owners following condensation of one or more units or parts thereto as set forth in Section 10.3 of ARTICLE X hereof. No amendment shall provide for the subdividing of any unit, unless all unit owners, and all holders mortgages upon individual units, shall have given their written approval thereof. No amendment to this Declaration, or the By-laws, shall allow the partitioning of the Common Areas, unless all unit owners, and all first mortgage lien holders upon the individual units shall have given their written approval thereof. No amendment made by the unit owners shall be effective prior to the expiration of seven (7) years from the date of filing of this Declaration without the consent of the DECLARANT, so long as the DECLARANT owns any unit for resale to the first purchaser from the DECLARANT or owns any portion of the Master Site not yet then submitted to this Declaration.

15.2 Restriction on Amendments: No amendment to this Declaration or to the By-laws shall be adopted or passed which shall impair or prejudice the rights and priorities of a mortgagee as holder or owner of a mortgage or deed-of-trust or other type security agreement encumbering any of the units in the condominium property.

IN WITNESS WHEREOF, DECLARANT has caused this Declaration to be executed for the purpose above stated, the day and year first above written.

QUAIL HOLLOW ESTATES ASSOCIATES, a North Carolina limited partnership

By: QUAIL CONSTRUCTION CO., INC., General Partner

By _____

Ralph F. Howey, President

ATTEST:

J. M. Culp, Secretary

Corporate Seal

EXHIBIT A
to
Declaration, Restrictions and Covenants of Phase I
of Quail Hollow West Condominium

(Master Site)

Being all of that tract of land located in Charlotte Township, Mecklenburg County North Carolina, more particularly described as follows:

BEGINNING at a point in the southerly or rear property line of Lot 14 in Block 1 of QUAIL HOLLOW ESTATES as shown on Maps A and B of Quail Hollow Estates recorded in Map Book 15, at Pages 425 and 427 in the Mecklenburg County Public Registry, said point being located N.84-09-09 E. 59.83 feet from the southwest-erly corner of the said Lot 14; and running thence from' said BEGINNING point N. 84-09-09 E. 189.07 feet to a point; thence, S. 85-32-18 E. 133.32 feet to a point; thence, N. 76-23-00 E. 365.00 feet to a point; thence, S. 85-20-00 E.180.00 feet to a point; thence, S. 76-20-00 E. 220.00 feet to a point; thence, S. 08-36-28 E. 250.00 feet to a point; thence, S. 11-00-37 W. 15.00 feet to a point; thence, in a north-westerly direction and with the arc of a circular curve to the right, having a radius of 390.00 feet, an arc distance of 64.37 feet to a point; thence, N. 69-32-00 W. 140.74 feet to a point; thence, in a northwesterly or westerly direction and with the arc of a circular curve to the left, having a radius of 465.00 feet, an arc distance of 287.84 feet to a point; thence, S.-75-00-00 W. 187.00 feet to a point; thence, continuing in a westerly direction and with the arc of a circular curve to the right, having a radius of 1,089.87 feet, an arc distance of 160.02 feet to a point; thence, S. 29-29-46 E. 131.93 feet to a point; thence, S. 52-43-22 E. 83.83 feet to a point; thence, S. 75-13-26 E. 53.93 feet to a point; thence, S. 15-30-55 W. 256.26 feet to a point; thence, S. 74-29-05 E. 160.25 feet to a point; thence, S. 13-58-22 W. 15.91 feet to a point; thence, S. 51-04-00 E. 344.67 feet to a point in the

northerly margin of the right-of-way of Sharon Road West; thence, with the northerly margin of the right-of-way of Sharon Road West, in four courses and distances as follows: (1) S. 79-06-36 W. 222.83 feet to a point; (2) in a westerly direction and with the arc of a circular curve to the right, having a radius of 490.59 feet, an arc distance of 315.19 feet to a point; (3) N. 64-04-44 W. 519.81 feet to a point; and (4) with the arc of a circular curve to the left, having a radius of 997.66 feet, an arc distance of 87.99 feet to a point; thence, N. 71-02-41 E. 192.55 feet to a point; thence, N. 74-18-47 E. 62.00 feet to a point; thence, N. 00-54-34 E. 593.33 feet to the point or place of BEGINNING, containing 14.54 acres, all as shown on a blueprint of "Map Showing Proposed Multi-Family Area, Quail Hollow Estates, Charlotte, North Carolina, property of Home Federal of Greensboro". dated September 5, 1979, by Frank B. Hicks, Jr., N.C.R.L.S., reference to which is hereby made. Being all of that property conveyed to Quail Hollow Estates Associates by deed recorded in Book 4244 at page 48 in the Mecklenburg Public Registry.

EXHIBIT B
to
Declaration, Restrictions and Covenants of Phase I
of Quail Hollow West
(PHASE I)

Being all of that tract of land located in Charlotte Township, Mecklenburg County, North Carolina, more particularly described as follows:

BEGINNING at a point located at the northeast corner of that tract of land described in deed from Home Federal Savings and Loan Association of Greensboro to Quail Hollow Estates Associates dated October 15, 1979, and recorded in Book 4244 at page 48 in the Mecklenburg Public Registry; thence from said point of Beginning and running with a portion of an easterly line of said tract S. 08-36-28 E. 234.03 feet to a point located in the northerly margin of Quail Meadow Lane (a private road 30 feet in width); thence along the northerly margin of Quail Meadow Lane in four calls as follows: (a) in a northwesterly direction with the arc of a circular curve to the right, having a radius of 360 feet, an arc distance of 54.06 feet, (b) N. 69-32 W. 140.74 feet, (c) in a westerly direction with the arc of a circular curve to the left having a radius of 495 feet, an arc distance of 306.41 feet, and (d) S. 57-00 W. 44.66 feet to a point; thence N. 08-38-46 W. 201.69 feet to a point located in the northerly boundary of the property described in said recorded deed; thence with three calls of the northerly boundary of said property, as follows: (a) N. 76-23-00 E. 134 feet to a point, (b) S. 85 20-00 E. 180 feet to a point, and (c) S. 76-20-00 E. 220 feet to the point or place of Beginning. Said property is the same as shown on survey thereof entitled "Plat of Quail Hollow Estates Condominium Phase I" by Robert Earl Stephenson, Registered

Surveyor, dated May 5, 1980 (as revised through December 8, 1980), which survey will be filed for record contemporaneously with the filing of this Declaration.

PRIVATE ROADWAY EASEMENT: By the terms hereof, DECLARANT does hereby grant to all future unit owners of condominium units located on the above-described property and their successors in interest a perpetual private roadway easement over and upon that private road known as "Quail Meadow Lane" referred to in the above description for the purpose of access to and from said condominium units. The easement herein granted is a non-exclusive, roadway easement for the benefit of said condominium owners and their successors in interest as well as for the benefit of all future owners of condominium units hereafter erected upon the property described on the foregoing "EXHIBIT A" and their successors in interest and for the benefit of the DECLARANT and its successors in interest to the ownership of said private road.

The foregoing described tract consists of a portion of that property which was conveyed to Quail Hollow Estates Associates by Home Federal Savings and Loan Association of Greensboro by deed dated October 15, 1979, which was recorded in Book 4244 at page 48 in the Mecklenburg Public Registry.