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STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

PRESENTED  
FOR  
REGISTRATION  
JUL 15 8 08 AM '83  
CHARLES E. LEWDER  
REGISTER OF DEEDS  
MECKLENBURG CO. N.C.

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR RAINTREE SOUTH

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into this 14<sup>th</sup> day of July, 1983, by and between RAINTREE CORP., a North Carolina corporation having its principal place of business in Mecklenburg County, North Carolina ("Declarant"), and any and all persons, firms or corporations hereafter acquiring any of the property more particularly described herein.

STATEMENT OF PURPOSE

Declarant is the owner of certain real property located within the Village of Raintree Planned Unit Development and desires to create thereon an exclusive residential community or communities with permanent common areas and community facilities for the benefit of said community or communities.

Declarant desires to ensure the attractiveness of all individual lots and common areas within such real property located within the Village of Raintree Planned Unit Development and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of the said property and to provide for the maintenance of all common areas, and to this end, desires to subject the real property more particularly described in Section 1 of Article II hereof, together with such additions as may hereinafter be made thereto (as provided in Article II) to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

Declarant has deemed it desirable, for the efficient preservation of values of and amenities in such property, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the common areas located within such property and establishing a procedure for

~~DRAWN BY~~ AND MAIL TO  
PARHAM, HELMS & KELLAM  
831 BAXTER ST.-SUITE 215  
CHARLOTTE N.C. 28202

will be members of a Sub-Association but will not, individually, be members of the Raintree South Homeowners Association.

Declarant will require that the Association enter into an agreement or agreements with other homeowners associations within the Village of Raintree Planned Unit Development so that lot or condominium owners who are members of Sub-Associations will have the right to use and enjoy all the common areas within the Village of Raintree Planned Unit Development and will have the reciprocal obligation to maintain all the common areas within the Village of Raintree Planned Unit Development.

NOW, THEREFORE, the Declarant declares that the real property described in Section 1 of Article II hereof, and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens which shall run with the land and be binding upon and inure to the benefit of all owners thereof, their heirs, personal representatives, successors and assigns.

#### ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to the Raintree South Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having such interest in a Lot solely as security for the performance of an obligation.

Section 3. "Properties" or "Property" shall mean and refer to the "Existing Property" described in Article II, Section 1 hereof and any additions thereto, as are or shall become subject to this Declaration and any supplementary Declaration under the provisions of Article II hereof.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners

and designated as "Common Open Space" or "Common Area" on any plat duly recorded in the Mecklenburg County Public Registry in accordance with the provisions of this Declaration and which makes reference to this Declaration.

Section 5. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown upon any recorded subdivision map of the Properties and any condominium unit located in buildings upon the Properties which is shown on the plans and specifications of a condominium recorded in the Mecklenburg County Public Registry, with the exception of (1) any Common Area or Common Open Space shown on any recorded map, and (2) land reserved and specifically designated for the exclusive limited common use of the Owners of Single-Family Attached Cluster Homes, Townhouses-For-Sale, Condominiums or the occupants of Multi-Family Apartment Buildings or any combination of said Owners. In the event any Lot is increased or decreased in size by re-subdivisions, through recordation of new subdivision plats, any such newly platted Lot shall thereafter constitute a Lot for the purposes of this Declaration. Land reserved and designated for the construction of multi-family buildings shall be deemed a Lot within the meaning of this Declaration, and if any subdivision or resubdivision of that area shall be effected by conveyance (including conveyance by deed of trust), recordation of plat(s) or by construction of a Condominium thereon and organization of the same under the provisions of the Unit Ownership Act of North Carolina, each Lot derived from each subdivision and each resubdivision and creation of Condominium units shall be a Lot if the same shall be of sufficient size and otherwise meets the definition of a Lot and private dwelling unit under this Section and under applicable zoning ordinances.

Section 6. "Declarant" shall mean and refer to Raintree Corp., its successors and assigns.

Section 7. "Member" shall mean and refer to every Sub-Association which holds membership in the Association.

Section 8. "Multi-Family Apartment Building" shall mean a residential building constructed within an area designated by a

recorded plat for multi-family buildings and designed to contain more than one private dwelling unit.

Section 9. "Townhouse-for-Sale" shall mean any single-family residence built for sale on a Lot in an area designated by a recorded plat for townhouse residences, located within a building which is designed to contain more than one private dwelling unit.

Section 10. "Single-Family Attached Cluster Home" shall mean a single-family residence attached to one or more other single-family residences by a common wall or walls but standing upon any Lot other than a Lot lying within the area designated by a recorded plat for Multi-Family Apartment Buildings or Townhouses For Sale.

Section 11. "Condominium" shall mean a dwelling unit in a residential building constructed in the area designated by a recorded plat for multi-family buildings and designed to contain more than one private dwelling unit irrespective of whether title to all of the units shall be vested in one owner or shall be vested in diverse owners.

Section 12. "Sub-Association" shall mean and refer to the homeowners associations or condominium associations formed (or to be formed) to oversee and administer the development of portions of the Properties, and each such Sub-Association shall enforce and administer separate declarations of covenants, conditions and restrictions to be recorded in the Mecklenburg County Public Registry which shall set forth covenants, conditions, restrictions, architectural review and control more particularly drafted to reflect the particular type and form of housing development subject thereto.

ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION  
AND  
ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, irrespective of whether there may be

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additions thereto as hereafter provided, is located in Providence Township, Mecklenburg County, North Carolina, described as follows:

Being all of that property more particularly described on Exhibit A attached hereto and by reference made a part hereof.

This property shall be herein referred to as "Existing Property".

Section 2. Without further assent or permit, Declarant hereby reserves the right, exercisable from time to time, to subject other real property to the restrictions set forth herein, in order to extend the purpose of this Declaration to Properties to be developed and thereby to bring such additional Properties within the jurisdiction of the Association through membership of the Sub-Association formed to oversee and administer the particular Property.

The additions herein authorized shall be made by filing of record one or more supplementary Declarations in respect to the Properties to be then subject to this Declaration and which shall extend the jurisdiction of the Association to such Properties and thereby subject such addition to assessment for its just share of the Association's expenses. Each supplementary Declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained herein as may be necessary to reflect the different character of the added Properties; provided, however, any such supplemental Declaration or any such other Declaration shall not revoke or otherwise amend the provisions of this Declaration as this Declaration pertains to the Properties subject hereto.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Sub-Association, its successors and assigns, which is formed pursuant to the terms and conditions hereof

to oversee and administer the Properties shall be a member of the Association.

Section 2. Although the Sub-Associations will constitute the membership of the Association, each Sub-Association shall have the number of votes in Association matters as is determined by the following provisions:

(a) Class A Lots. Each Sub-Association shall have the number of votes in Association matters as is determined by the number and type of Class A Lots within the development overseen and administered by the Sub-Association. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. The voting rights in Association matters attributable to each Sub-Association on the basis of Class A Lots shall be as follows:

(1) Multi-Family Apartment Buildings. A Sub-Association which oversees and administers a Multi-Family Apartment Building(s) shall be entitled to one-half (1/2) of one vote for each completed private dwelling unit within the Multi-Family Apartment Building(s) located upon said Lot. To qualify as "completed", the private dwelling unit within the Multi-Family Apartment Building(s) must be certified for occupancy and either be occupied, available for immediate occupancy, or temporarily unavailable for immediate occupancy due to repairs, maintenance work or restoration. A Sub-Association which oversees and administers a Lot reserved and designated for the development of Multi-Family Apartment Building(s) but not containing at least two completed private dwelling units shall be allotted one (1) vote.

(2) Condominium. A Sub-Association which oversees and administers a Condominium shall be entitled to one-half (1/2) of one vote for each completed Condominium unit designated as a Lot. To qualify as "completed", the Condominium unit within the multi-family building(s) must be certified for occupancy and either

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occupied, available for immediate occupancy, or temporarily unavailable for immediate occupancy on account of repairs, maintenance work or restoration. A Sub-Association which oversees and administers a Lot reserved and designated for development of Condominiums but not containing at least two completed private dwelling units shall be allotted one (1) vote.

(3) Townhouses-for-Sale. A Sub-Association which oversees and administers Townhouses-for-Sale shall be entitled to three-fourths (3/4) of one vote for each designated Lot within such Townhouse-for-Sale subdivision.

(4) Single-Family Attached Cluster Homes. A Sub-Association which oversees and administers Single-Family Attached Cluster Homes shall be entitled to three-fourths (3/4) of one vote for each designated Lot within such Single-Family Attached Cluster Homes subdivision.

(5) Single-Family Detached Homes. A Sub-Association which oversees and administers Single-Family Detached Homes shall be entitled to one (1) vote for each designated Lot within such Single-Family Detached Homes subdivision.

(b) Class B Lots. The Declarant shall have the number of votes in Association matters as is determined by the number of Class B Lots within the Properties. Class B Lots shall be all Lots within the Properties owned by Declarant. The Declarant shall be entitled to three (3) votes for each Class B Lot designated by a recorded plat for the development of a Single-Family Detached Home, three (3) votes for each Class B Lot designated by a recorded plat for the development of Single-Family Attached Cluster Homes or Townhouses-for-Sale and two (2) votes for each Class B Lot designated by a recorded plat for the development of Condominiums or Multi-Family Apartment Buildings.

(c) Relinquishment of Control. Anything herein to the contrary notwithstanding, upon the earlier to occur of:

(i) four (4) months after seventy-five percent (75%) of the Lots governed by Sub-Associations now or hereafter formed are purchased by the ultimate purchasers and Lot Owners (but not the developer of the Lots within the Sub-Associations); and

(ii) five (5) years from the date hereof the Declarant shall thereupon be entitled only to the aggregate number of all votes cast by the Representatives minus one (1).

(d) Representative. Each Sub-Association which is a member of the Association, shall elect or otherwise designate one (1) representative from such Sub-Association to vote on its behalf at all meetings of the Association and on all Association matters. Such representatives shall be entitled to cast the number of votes for such Sub-Association as is determined in accordance with this Article III.

#### ARTICLE IV

##### COMMON AREA PROPERTY RIGHTS

Section 1. Every Owner (through membership in a Sub-Association and the Sub-Association's membership in the Association) shall have a nonexclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title for every Lot subject to the provisions of this Declaration, the Charter and Bylaws of the Association, those certain contracts to convey (to be entered into) between Raintree Corp. and the various Sub-Associations, those certain contracts of leaseback (to be entered into) between Raintree Corp. and the various Sub-Associations, and the following:

(a) The right of the Association and the applicable Sub-Association to limit the use of the Common Area to



Owners, their families and guests and the members of Sub-Associations and other homeowners associations within the Village of Raintree Planned Unit Development.

(b) The right of the Association and the applicable Sub-Association to suspend the voting and enjoyment rights of an Owner for any period during which any assessment against his Lot remains unpaid.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedications or transfer shall be effective unless 66-2/3% of the aggregate number of votes in Association matters are cast in favor of such dedication or transfer and such agreement is evidenced by a signed and recorded written document, provided that this Section shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership which such easements are requisite for the convenient use and enjoyment of the Properties.

Notwithstanding any provision of this Section to the contrary, the Board of Directors of the Association shall lease to the Declarant, or its designee, all portions of the Common Area which constitute portions of the Raintree golf courses and related facilities, such lease to be made pursuant to a lease agreement to be provided by the Declarant and executed by the Association.

Section 2. The right and easement of enjoyment granted to every Owner in Section One of this Article may be exercised by members of the Owner's family, and an Owner may delegate his rights of enjoyment in the Common Area to his tenants or contract purchasers who occupy the residence of the Owner within the Properties.

Section 3. The Association shall enter into an agreement or agreements with other homeowners associations within the Village of Raintree Planned Unit Development subject to the approval of the Declarant and similar to and consistent with other agreements of the same type executed by other homeowners associations within the Village of Raintree Planned Unit Development. Said agreement or agreements will insure that the Association (and its Sub-Association members and the individual Owners who are members of Sub-Associations) have the right to use and enjoy other common area within the Village of Raintree Planned Unit Development and, reciprocally, the obligation to contribute to the maintenance and upkeep of such other common area.

#### ARTICLE V

##### COVENANTS FOR MAINTENANCE ASSESSMENTS.

Section 1. Annual Assessment for Maintenance Fund. For each Lot owned within the Properties, each Sub-Association covenants and agrees to collect and pay to the Association from each Owner within the subdivision overseen and administered by such Sub-Association, and every Owner covenants, and each subsequent Owner of any such Lot, by acceptance of a deed therefor, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay to the Association (through payment to the applicable Sub-Association and subsequent payment to the Association):

(a) Annual assessments or charges for the creation and continuation of a maintenance fund in the amount hereinafter set forth;

(b) Special assessments as approved by the Association, to be established and collected as hereinafter provided.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to provide funds for such purposes as are for the benefit of the Sub-Associations and the Owners, which purposes may include maintenance, landscaping and beautification of the Common Areas. Such assessments shall also be used to contribute to the maintenance and upkeep of and purchase of liability insurance and payment of applicable ad valorem

taxes for all common areas within the Village of Raintree Planned Unit Development. Funds may also be used to provide other services for the Sub-Associations and the Owners to promote the health, safety and welfare of the residents of the community and in particular for the acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area including, but not limited to, the cost of repair, replacement and additions thereto; the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance, the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful, the employment of security personnel to provide any service which is not readily available from any governmental authority, and such other needs as may arise.

Section 3. Creation of the Lien and Personal Obligation of Assessment. To secure payment of any assessment, as each assessment becomes due there shall arise a continuing lien and charge against each Lot, the amount of which shall include costs and reasonable attorneys' fees to the extent permissible by law. Each such assessment, together with such interest, costs and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due; such personal obligation shall not pass to successors in title unless expressly assumed by them, provided such assumption shall not relieve such Owner of such obligation if the same is not paid when due by the successor assuming it.

Section 4. Exempt Property. The assessments, charges and liens created under this Article V shall not apply to the Common Area, nor shall it apply to any Lot the title to which is vested either in any first mortgagee subsequent to foreclosure or in the Secretary of Housing and Urban Development or the Administrator of Veterans' Affairs or any other State or Federal governmental agency which acquires title by reason of such agency's guarantee or insurance of a foreclosed mortgage loan; provided, however, that, upon the resale of such property by such first mortgagee or

such governmental agency, the assessment herein provided shall again commence and accrue and shall be fully applicable to such Lot upon the conveyance to any subsequent Owner. Any Lot which Declarant may hereafter designate for common use as part of the Common Area or otherwise shall be exempt from the assessments and charges created herein. In addition, all property dedicated to and accepted by a local public authority, all land granted to or used by a utility company, all properties owned by a charitable or nonprofit organization exempt from taxation under the laws of the State of North Carolina shall be exempt from the assessments, charges and liens created hereby.

Section 5. Annual Maintenance Assessment and Maximum.

(a) The annual maintenance assessment shall be set each year by the Board of Directors of the Association as provided in Section Eight hereunder and in the Association's Bylaws.

(b) Until April 1, 1984, the maximum annual assessment per Lot shall be \$132.00 per year. The annual assessment set by the Board of Directors of the Association shall not exceed the maximum annual assessment.

(c) From and after April 1, 1984, the annual assessment may be increased above the maximum provided in subsection (b) above and without limitation if such increase is approved by no less than three-fourths (3/4) of the total of votes eligible to vote on Association matters in person or by proxy, at a meeting duly called for this purpose.

Section 6. Special Assessments. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, provided that any such assessment shall have the same assent as provided in Section 5(c) of this Article.

Section 7. Declarant. Notwithstanding the foregoing, Declarant shall at no time be required to pay more than \$66.00 per year per Class B Lot in the form of annual maintenance assessment and special assessments and the ratio of the assessment established for each type of Class B Lot to the assessment established for each type of Class A Lot shall always be one-half to one.

Section 8. Notice and Quorum For Any Action Authorized Under Sections Five and Six. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5 and 6 of this Article shall be sent to the designated representative of each Sub-Association not less than ten (10) days nor more than sixty (60) days in advance of the meeting.

At the first such meeting called, the presence in person or by proxy of representatives of Sub-Associations entitled to cast sixty percent (60%) 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 one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held less than six (6) months following the preceding meeting.

Section 9. Date of Commencement of Annual Assessment; Due Dates; Certificate of Payment. Annual assessments provided for herein shall begin to accrue as to all Class B Lots one hundred-eighty (180) days from the filing of this Declaration (in the case of the Existing Properties) or a supplement thereto (in the case of Additional Properties) which subjects Additional Properties to the terms hereof, as applicable. Annual Assessments provided for herein shall begin to accrue as to all Class A Lots upon the filing of this Declaration (in the case of the Existing Properties) or a supplement thereto (in the case of Additional Properties) which subjects Additional Properties to the terms hereof, as applicable. The first annual assessment on any Lot shall be adjusted according to the number of months remaining in the calendar year but shall be payable at the time the assessment first accrues. At least thirty (30) days before January 1 of each year, the Board of Directors shall establish the amount of the annual assessment against each Lot and in the event the Board elects not to fix such assessment rate as herein provided, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed assessment rate shall be sent to every Owner by the applicable Sub-Association. The due

dates for the payment of annual and special assessments shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid to date.

Section 10. Assessment Rate. The annual and special assessment for the Lots within the Properties shall be fixed according to the following rates:

(a) Single-Family Detached Home. Each Lot designated as a Lot on which a Single-Family Detached Home is or may be constructed shall be assessed at a rate of One Hundred percent (100%) of any annual or special assessment fixed or levied pursuant to this Article (said annual or special assessment being referred to in this Section as "the assessment").

(b) Single-Family Attached Cluster Home. Each Lot designated as a Lot on which a Single-Family Attached Cluster Home is or may be constructed shall be assessed at a rate of Seventy-five percent (75%) of "the assessment".

(c) Townhouse-for-Sale. Each Lot designated as a Lot on which a Townhouse-for-Sale is or may be constructed shall be assessed at a rate of Seventy-Five percent (75%) of "the assessment".

(d) Multi-Family Apartment Building and Condominium. Each Lot used for the development thereon of Multi-Family Building(s) and Condominium(s) shall, upon the completion of two or more private dwelling units in said building(s), be assessed for each completed private dwelling unit, and each unit shall be assessed at a rate of Fifty percent (50%) of "the assessment". To qualify as "completed", the private dwelling unit in the building must be certified for occupancy and occupied, available for immediate occupancy, or temporarily unavailable for immediate occupancy on account of repairs, maintenance work or restoration. Prior to the completion upon a Lot of two (2) private dwelling units within such a building, said Lot shall be assessed at a rate of One Hundred percent (100%) of "the assessment".

Section 11. Effect of Nonpayment of Assessment; Remedies Of The Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum legal rate and to the extent allowed by law. The Association, its agent or representative, or the applicable Sub-Association, its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs and reasonable attorneys' fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. An Owner may not waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 12. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any deed of trust (sometimes hereinafter called "mortgage") on any Lot if, but only if, all such assessments with respect to such Lot having a due date on or prior to the date such mortgage is filed for record have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to assessments authorized hereunder having a due date subsequent to the date such mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such mortgage or the sale or transfer of the mortgaged property pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the mortgaged property pursuant to a sale under power contained in such mortgage. Sale or transfer of any Lot shall not affect any assessment lien. The sale or transfer of any Lot which is subject to any mortgage pursuant to a foreclosure thereof or under a power of sale or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, but the Association and the applicable Sub-Association shall have a lien upon the proceeds from foreclosure or of sale junior only to the said foreclosed first mortgage and the equity of redemption of the mortgagor or

trustor. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

#### ARTICLE VI

##### ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

It is contemplated that the Declaration of Covenants, Conditions and Restrictions to be filed of record in connection with the formation of each Sub-Association shall set forth appropriate architectural, maintenance and use restrictions applicable to the Common Area and to the Lots located with the subdivision overseen and administered by each such Sub-Association.

#### ARTICLE VII

##### EASEMENTS

Section 1. General. Each Lot now or hereafter subjected to this Declaration shall be subject to all easements shown or set forth in the recorded plat(s) of survey upon which such Lot is shown. No structure(s) of any type shall be erected or placed upon any part of a Lot or Common Area which will interfere with the rights and use of any and all easements shown on said recorded plat.

Section 2. Utility and Drainage. An easement on each Lot is hereby reserved by the Declarant for itself and its successors and assigns along, over, under and upon a strip of land ten (10) feet in width, parallel and contiguous to the rear or back Lot line of each Lot, and along, over and under and upon a strip of land five (5) feet in width parallel and contiguous to each side Lot line, in addition to such other easements as may appear on the aforementioned recorded subdivision plat(s). The purpose of these easements shall be to provide, install, maintain, construct and operate drainage facilities now or in the future and utility service lines to, from or for each of the individual subdivision Lots. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or



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which may change the direction or flow of drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by Owner, except for those improvements for which a public authority or utility company is responsible. With ten (10) days' prior written notice to Owner, Declarant shall have the right to enter on the Owner's property for the purpose of removing obstructions in such easements upon Owner's failure to do so. For the purpose of this covenant, the Declarant reserves the right to modify or extinguish the herein reserved easements along any Lot lines when, in its sole discretion, adequate reserved easements are otherwise available for the installation of drainage facilities and/or utility service lines. For the duration of these restrictions, no such utilities shall be permitted to occupy or otherwise encroach upon any of the easement areas reserved without first obtaining the prior written consent of the Declarant; provided, however, local service from utilities within easement areas to residences constructed upon any such Lots may be established without first obtaining separate consent therefor from the Declarant. The Association may likewise reserve and grant easements for the installation and maintenance of sewage, utility and drainage facilities in, across, under and over the Common Area.

Section 3. Emergency. There is hereby reserved without further assent or permit, a general easement to all policemen and security guards employed by the Declarant and the Association, firemen, ambulance personnel and all similar persons to enter upon the Properties or any portion thereof which is now or hereafter made subject to this Declaration in the performance of their respective duties.

#### ARTICLE VIII

##### SALE OR LEASE OF LOTS

Section 1. Sale by Mortgagee. Should any Lot now or hereafter made subject to this Declaration become subject to a mortgage as security in good faith for value, the holder thereof on becoming Owner of such interest through whatever means, or the

seller at any sale under a power of sale therein contained, shall otherwise sell and the purchaser shall take subject to the terms, covenants and provisions contained herein.

## ARTICLE IX

### GENERAL PROVISIONS

Section 1. Duration. This Declaration and the foregoing restrictions shall be construed to be covenants running with the land and shall be binding and effective until December 31, 1999, at which time they shall be automatically extended for successive periods of ten (10) years each unless it is agreed by a majority of the votes entitled to be cast in Association matters to change, amend or revoke this Declaration and the restrictions contained herein in whole or in part. Every purchaser, Owner or subsequent grantee of any interest in any Property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefor, hereby agrees that the covenants and restrictions of this Declaration may be extended as provided in this Article.

Section 2. Amendment. The covenants and restrictions of this Declaration, as they pertain to the Properties may be amended at any time and from time to time during the period or any extension or renewal thereof, by an agreement signed (a) by Declarant, if it is the Owner of any Lots then subject hereto; and (b) to the extent permitted by law, by the assent of at least two-thirds (2/3) of the votes entitled to be cast by representatives of Sub-Associations in Association matters. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. By way of clarification, this process of amendment does not apply to "additions" as described in Article II, Section Two hereof. Every Owner or subsequent grantee of any interest in any Property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be extended as provided in this Article.

Section 3. Enforcement. If any person, firm or corporation shall violate or attempt to violate any of these restrictions, it shall be lawful for any other person, firm or corporation owning any Property subjected to the terms hereof to bring an action against the violating party at law or in equity for any claim which these restrictions may create in such other owner or interested party either to prevent said person, firm or corporation from so doing such acts or to recover damages for such violation. Any failure by Declarant or any Owner to enforce any of said covenants and restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one or more of these restrictions by judgment or court order shall neither affect any of the other provisions not expressly held to be void nor the provisions so voided in circumstances or application other than those expressly invalidated, and all such remaining provisions shall remain in full force and effect together with the provisions ruled upon as they apply to circumstances other than those expressly invalidated.

Section 4. Delegation and Assignability. Declarant shall at all times and from time to time have the right to delegate any and all functions herein reserved to Declarant. Further, notwithstanding any other provision contained herein to the contrary, Declarant shall have the right at all times and from time to time to fully transfer, convey and assign all or any part of its right, title and interest (whether real or personal) in and to Common Area; provided, however, that any such transferee, grantee or assignee shall be deemed to have assumed the same. In the event of any such sale, transfer or conveyance, said Declarant shall not be relieved of liability resulting from its failure to perform or negligent performance of its obligation under this Declaration prior to such sale, transfer or conveyance. Declarant shall not, however, be liable to any person for any injury or loss resulting from failure of performance or negligent performance of Declarant's obligations under these covenants arising after such sale, transfer or conveyance.

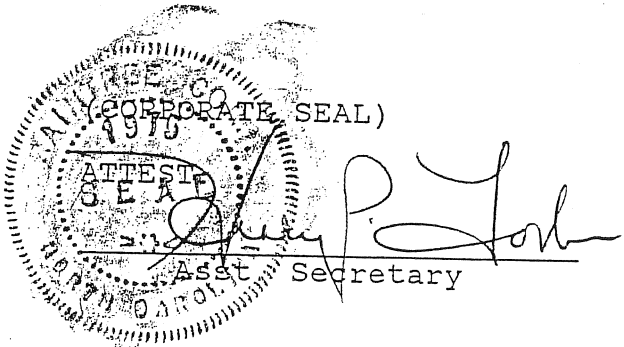
Section 5. Headings and Binding Effect. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying the particular Sections to which they refer. The covenants, agreements, and rights set forth herein shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of the Declarant and any Owner and all persons or entity claiming by, through or under Declarant or any Owner.

Section 6. Unintentional Violation of Restrictions. In the event of unintentional violation of any of the foregoing restrictions with respect to any Lot, the Declarant or its successors reserves the right (by and with the mutual written consent of the Owner or Owners for the time being of such Lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants, Conditions and Restrictions to be duly signed this 5<sup>th</sup> day of July, 1983.

RAINTREE CORP.

BY: *John M. Full*  
Vice President



FEE 38.00  
<> 38.00  
CASH 38.00

9:57 #2699 000  
07/15/83

STATE OF Georgia  
COUNTY OF DeKalb

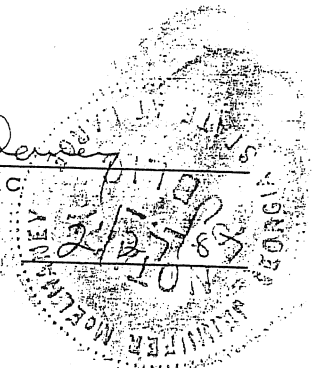
This 5<sup>th</sup> day of July, 1983, before me, the under-  
signed Notary Public in and for the County and State aforesaid,  
personally came Peter M. Franklin, who, being by me  
duly sworn, says that he is Vice President of RAINTREE CORP. and  
that the seal affixed to the foregoing instrument in writing is  
the corporate seal of said corporation and that said instrument  
was signed and sealed by him in behalf of said corporation by its  
authority duly given. And the said ~~Henry P. Lumber~~ Vice President  
acknowledged said writing to be the act and deed of said corpo-  
ration.

WITNESS my hand and notarial seal.

Jennifer McElhaney  
Notary Public

My Commission Expires: 2/12/83

[NOTARIAL SEAL]



State of North Carolina, County of Mecklenburg  
The foregoing certificate(s) of Jennifer McElhaney,

the State of Georgia at Large  
a Notary Public of xxxxxx County and State

is ~~not~~ certified to be correct. This 15 day of July, 1983  
Charles E. Crowder, Register of Deeds, By: Mary C. Rice  
DEPUTY

See Page 946

BEGINNING at a point on the westerly margin of Four Mile Creek Road (R/W=60'), the southeast corner of Lot 86 of Williamsburg as shown in Map Book 19 at Page 570 of the Mecklenburg Public Registry; thence from this beginning point, along said westerly margin of Four Mile Creek Road in a southerly direction; (1) with the arc of a circular curve to the right having a radius of 550.01 feet, a distance of 264.36 feet to a point; (2) S. 33-50 W. 132.0 feet to a point; (3) with the arc of a circular curve to the left having a radius of 798.39 feet, a distance of 766.40 feet to a point; (4) S. 21-10 E. 120.0 feet to a point; (5) with the arc of a circular curve to the right having a radius of 348.80 feet, a distance of 338.88 feet to a point; (6) S. 34-30 W. 172.0 feet to a point; (7) with the arc of a circular curve to the left having a radius of 398.03 feet, a distance of 156.53 feet to a point; thence N. 78-01-54 W. 43.40 feet to a point; thence N. 47-45 W. 162.77 feet to a point; thence N. 42-45-24 E. 149.54 feet; thence N. 33-56-45 E. 50.60 feet; thence N. 34-30 E. 146.35 feet; thence N. 21-24-41 E. 61.85 feet; thence N. 0-45-46 E. 62.27 feet; thence N. 19-15-12 W. 235.42 feet; thence N. 14-17-02 W. 88.59 feet; thence N. 8-54-06 W. 88.59 feet; thence N. 3-31-10 W. 88.59 feet; thence N. 1-51-46 E. 88.59 feet; thence N. 7-14-42 E. 88.59 feet; thence N. 12-37-38 E. 88.59 feet; thence N. 18-00-34 E. 88.59 feet; thence N. 23-23-30 E. 88.59 feet; thence N. 28-46-26 E. 88.59 feet; thence N. 33-50 E. 174.14 feet; thence N. 10-33-12 E. 50.50 feet; thence N. 17-52-15 E. 164.59 feet to a point in the southerly line of Lot 86 of Williamsburg; thence with the southerly line of Lot 86 N. 73-43-20 W. 154.27 feet to the point and place of beginning, all as shown on plat of Southbury Section 1, dated July, 1983, prepared by Bobby J. Raye, R. S.

COPY

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

SUPPLEMENT TO DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR  
RAINTREE SOUTH

PRESENTED  
FOR  
REGISTRATION  
FEB 24 4 47 PM '84  
CHARLES E. CROWDER  
REGISTER OF DEEDS  
MECKLENBURG CO. N.C.

THIS SUPPLEMENTARY DECLARATION to the Declaration of Covenants, Conditions and Restrictions for RAINTREE SOUTH is made this 24 day of February 1984, by RAINTREE CORP., a North Carolina corporation having a principal place of business in Mecklenburg County, North Carolina (hereinafter referred to as "Declarant") and JRS ENTERPRISES, INC., a North Carolina corporation.

W I T N E S S E T H:

WHEREAS, Declarant executed a Declaration of Covenants, Conditions and Restrictions ("Declaration") dated July 14, 1983, recorded in Book 4690 at page 924 of the Mecklenburg County Public Registry with respect to certain real property described and defined in Article II of the Declaration.

WHEREAS, pursuant to the Declaration, Declarant reserved the right to subject additional properties to the terms and conditions of the Restrictions, including but not limited to the real property more particularly described on Exhibit A attached hereto and by reference made a part hereof (hereinafter referred to as the "Additional Property"); and

WHEREAS, Article II, Section Two of said Declaration provides that Declarant may subject other real property to the restrictions set forth in the Declaration in order to extend the scheme of the Declaration to other properties and thereby bring such additional property within the jurisdiction of the Raintree South Homeowners' Association, Inc. by filing of record a Supplementary Declaration with respect to the property to be subject to said Declaration, which such Supplementary Declaration may, pursuant to Article II, Section Two of the Declaration, contain such complementary modifications or additions to said Declaration as may be necessary to reflect the different character of the added property, provided such Supplementary Declaration does not revoke or otherwise amend the provisions of the Declaration as the Declaration pertains to the property presently covered thereby; and

WHEREAS, JRS Enterprises, Inc., a North Carolina corporation and the current owner of the Additional Property desires to subject the Additional Property to the terms and conditions hereof and joins in the execution of this Supplementary Declaration for such purpose; and

WHEREAS, Declarant and JRS Enterprises, Inc. now desire to so subject the Additional Property to the Declaration.

NOW, THEREFORE, in consideration of the premises, Declarant and JRS Enterprises, Inc. hereby declare that the Additional Property shall be held, sold and conveyed subject to the Declaration to the same extent and degree as if the Declaration were herein set out in its entirety.

ARTICLE I

PROPERTIES SUBJECT TO THIS SUPPLEMENTARY DECLARATION

The Additional Property which is hereby made subject to said Declaration, and which shall be held, transferred, sold, conveyed and occupied subject to said Declaration, is located in Providence Township, Mecklenburg County, North Carolina, and is more particularly described on Exhibit A attached hereto and by reference made a part hereof and as may be further shown on a plat or plats to be subsequently recorded in the Mecklenburg County Public Registry.

ARTICLE II

RATIFICATION OF DECLARATION

Except with respect to the Additional Property hereby made subject to said Declaration, Declarant and JRS Enterprises, Inc. hereby ratify and confirm said Declaration.

ARTICLE III

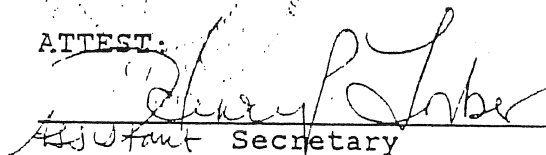
BINDING EFFECT

This Supplementary Declaration shall be binding upon and inure to the benefit of the respective successors and assigns of Declarant and JRS Enterprises, Inc. and all persons, firms or corporations claiming by, through or under Declarant or JRS Enterprises, Inc.

IN WITNESS WHEREOF, Declarant and JRS Enterprises, Inc. have caused this Supplementary Declaration to be duly executed, this \_\_\_\_\_ day of \_\_\_\_\_, 1984

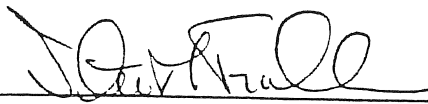
(CORPORATE SEAL)

ATTEST:

  
Assistant Secretary

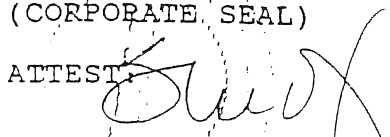
RAINTREE CORP.

By:

  
VICE-PRESIDENT

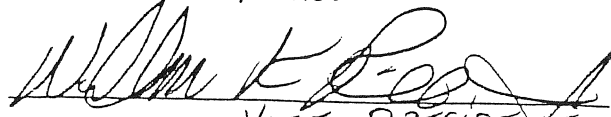
(CORPORATE SEAL)

ATTEST:

  
Asst Secretary

JRS ENTERPRISES, INC.

By:

  
VICE-PRESIDENT



STATE OF Georgia  
COUNTY OF DeKalb

This 30<sup>th</sup> day of August, 1983, personally came before me, the undersigned Notary Public in and for the County and State aforesaid, Peter Franklin, who, being duly sworn, says that he is V.P. of RAINTREE CORP. and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Company, and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given. And the said Peter Franklin acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and notarial seal.

James McEldaney  
Notary Public  
exp. 2/27/87

My Commission Expires:

STATE OF North Carolina  
COUNTY OF Mecklenburg

This 24 day of February, 1984, personally came before me, the undersigned Notary Public in and for the County and State aforesaid, William K. Rice, who, being duly sworn, says that he is Vice President of JRS ENTERPRISES, INC. and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Company, and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given. And the said Vice Pres. acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and notarial seal.

Marjorie O. Cameron  
Notary Public

My Commission Expires:

11-2-19-86

COPY

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

PRESENTED  
FOR  
REGISTRATION

OCT 28 1 07 PM '83

CHARLES E. CROWDER  
REGISTER OF DEEDS  
MECKLENBURG CO. N.C.

SUPPLEMENT TO DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR  
RAINTREE SOUTH

THIS SUPPLEMENTARY DECLARATION to the Declaration of Covenants, Conditions and Restrictions for RAIN TREE SOUTH is made this 21 day of October, 1983, by RAIN TREE CORP., a North Carolina corporation having a principal place of business in Mecklenburg County, North Carolina (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant executed a Declaration of Covenants, Conditions and Restrictions ("Declaration") dated July 14, 1983, recorded in Book 4690 at page 924 of the Mecklenburg County Public Registry with respect to certain real property described and defined in Article II of the Declaration.

WHEREAS, pursuant to the Declaration, Declarant reserved the right to subject additional properties to the terms and conditions of the Restrictions, including but not limited to the real property more particularly described on Exhibit A attached hereto and by reference made a part hereof (hereinafter referred to as the "Additional Property"); and

WHEREAS, Article II, Section Two of said Declaration provides that Declarant may subject other real property to the restrictions set forth in the Declaration in order to extend the scheme of the Declaration to other properties and thereby bring such additional property within the jurisdiction of the Raintree South Homeowners' Association, Inc. by filing of record a Supplementary Declaration with respect to the property to be subject to said Declaration, which such Supplementary Declaration may, pursuant to Article II, Section Two of the Declaration, contain such complementary modifications or additions to said Declaration as may be necessary to reflect the different character of the added property, provided such Supplementary Declaration does not revoke or otherwise amend the provisions of the Declaration as the Declaration pertains to the property presently covered thereby; and

WHEREAS, Declarant now desires to so subject the Additional Property to the Declaration.

NOW, THEREFORE, in consideration of the premises, Declarant hereby declares that the Additional Property shall be held, sold and conveyed subject to the Declaration to the same extent and degree as if the Declaration were herein set out in its entirety.

ARTICLE I

PROPERTIES SUBJECT TO THIS SUPPLEMENTARY DECLARATION

The Additional Property which is hereby made subject to said Declaration, and which shall be held, transferred, sold, conveyed and occupied subject to said Declaration, is located in Providence Township, Mecklenburg County, North Carolina, and is more particularly described on Exhibit A attached hereto and by reference made a part hereof and as may be further shown on a plat or plats to be subsequently recorded in the Mecklenburg County Public Registry.

ARTICLE II

RATIFICATION OF DECLARATION

Except with respect to the Additional Property hereby made subject to said Declaration, Declarant hereby ratifies and confirms said Declaration.

ARTICLE III

BINDING EFFECT

This Supplementary Declaration shall be binding upon and inure to the benefit of the successors and assigns of Declarant and all persons, firms or corporations claiming by, through or under Declarant.


IN WITNESS WHEREOF, Declarant has caused this Supplementary Declaration to be duly executed, this 12 day of October, 1983.

(CORPORATE SEAL)

RAINTREE CORP.

ATTEST:

By:

  
\_\_\_\_\_  
Secretary


  
\_\_\_\_\_  
President

EXHIBIT A

BEING all of Tract 1 and Tract 2 as shown on maps entitled "Wellington Square-Map 1" and "Wellington Square-Map 2" recorded in Map Book 20 at Pages 268 and 270 of the Mecklenburg County Public Registry, reference to which is hereby made.