

DEED BOOK PAGE

STATE OF NORTH CAROLINA

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COUNTY OF MECKLENBURG

PRESENTED FOR REGISTRATION JUL 15 8 11 AM '83 CHAIR REGISTERED UNDER MECKLENBURG COUNTY RECORDS N.C.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOUTHBURY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and published this 14th day of July, 1983, by and between RAINTREE CORP., a North Carolina corporation having its principal place of business in Mecklenburg County, North Carolina (hereinafter called "Declarant"), and any and all persons, firms or corporations hereafter acquiring any of the within described property.

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WITNESSETH:

WHEREAS, Declarant is the owner of the approximately 31.98 acre tract of real property within the Village of Raintree Planned Unit Development commonly known as "Area 5" and more particularly described on Exhibit A attached hereto and by reference made a part hereof and all lots within the subdivision known as SOUTHBURY as reflected on a plat or plats to be recorded in the Mecklenburg County Public Registry;

WHEREAS, it is in the best interest of the Declarant, as well as to the benefit, interest and advantage of each and every person or other entity hereafter acquiring any of the within described property that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the real property in the Southbury community; and for the continued maintenance and operation of the recreational and common areas as may be provided therein;

NOW, THEREFORE, in consideration of the premises, the Declarant agrees with any and all persons, firms, corporations or other entities hereafter acquiring any of the property hereinafter

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DRAWN BY LUTHER DUDLEY

MAIL TO PARHAM, HELMS & KELLAM 831 BAXTER ST., SUITE 215 CHARLOTTE, N.C. 28202

described, that the same shall be and is hereby subject to the following restrictions, covenants, conditions, easements, assessments and liens (all hereinafter collectively referred to as "Restrictions") relating to the use and occupancy thereof, said Restrictions to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and which shall inure to the benefit of each owner thereof. Every person or other party hereafter acquiring any of the within described properties made subject to this Declaration, by acceptance of a deed or contract for deed or other conveyance of any interest in or to said property, whether or not it shall be so expressed in any such deed, contract for deed or other conveyance, and regardless of whether the same shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take such property interest subject to this Declaration and to the terms and conditions hereof and shall be deemed to have assented to same.

#### ARTICLE I

##### Definitions

The following words when used in this Declaration or any supplemental declaration hereto (unless the context shall prohibit) shall have the following meaning:

Section 1. "Association" shall mean and refer to Southbury Homeowners Association, Inc., a nonprofit corporation organized and existing under the laws of the State of North Carolina, its successors and assigns.

Section 2. "Committee" shall mean and refer to the Architectural Committee.

Section 3. "Common Area(s)" shall mean and refer to any and all real property owned by the Master Association, or such other property to which the Master Association may hold legal title whether in fee or for a term of years, for the nonexclusive use, benefit and enjoyment of the Sub-Associations which are (or will be) members of the Master Association (and other homeowners

associations within the Village of Raintree Planned Unit Development) subject to the provisions of this Declaration (and the provisions of the Master Declaration). Common Areas with respect to the Properties made subject to this Declaration, whether at the time of filing of this Declaration or subsequently by supplementary Declaration(s) shall be as defined and bounded by properly referenced and recorded plat(s) designated thereon as "Common Areas" or "Common Open Space."

Section 4. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions applicable to the Properties and which is recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina.

Section 5. "Declarant" shall mean and refer to Raintree Corp., a North Carolina corporation, its successors and assigns.

Section 6. "Lot" shall mean and refer to any lot of land or part thereof to be used for single-family residential purposes and so designated on any subdivision plat or survey of Southbury which shall be of public record.

Section 7. "Master Association" shall refer to the Raintree South Homeowners Association, a non-profit corporation organized and existing under the laws of the State of North Carolina, its successors and assigns of which the Association is a member and which such Master Association shall be responsible for the maintenance of Common Areas.

Section 8. "Master Declaration" shall refer to the Declaration of Covenants, Conditions and Restrictions of Raintree South Homeowners Association filed of record in the Mecklenburg County Public Registry to which the Properties and all Owners are and shall be subject.

Section 9. "Member" shall mean and refer to any person or other entity who holds membership in the Association.

Section 10. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any Lot which is a part of Southbury, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.

Section 11. "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

Section 12. "Properties" or "Property" shall mean and refer to any and all of that certain real property now or which may hereafter be brought within that certain residential subdivision in Providence Township, Mecklenburg County, North Carolina, which subdivision is and shall be commonly known as "Southbury."

Section 13. "Sub-Association" shall mean and refer to the Association and other homeowners associations or condominium associations formed or to be formed which are members of the Master Association. The owners of property which are members of such a Sub-Association will, thus, also be subject to the covenants, conditions and restrictions (and entitled to use the Common Area, as defined in the Master Declaration) set forth in the Master Declaration.

Section 14. "Southbury" shall mean and refer to that certain residential subdivision known as Southbury which is being developed on real property in Providence Township, Mecklenburg County, North Carolina, a portion of which is more particularly described on Exhibit A attached hereto and as shown on a plat or plats to be recorded in the Mecklenburg County Public Registry, together with such additions thereto as may from time to time be designated by Declarant whether or not such additions are contiguous with or adjoin the boundary lines of Southbury.

## ARTICLE II

### Properties Subject to This Declaration

Section 1. The Property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration and the Master 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 will be shown on a plat or plats to be recorded in the Mecklenburg County Public Registry. Only the specified

Lots and Common Area(s) shown on the designated plat or plats as above described are hereby made subject to this Declaration; provided, however, Declarant reserves the right to subject other real property to the Restrictions set forth herein as provided below.

Section 2. Without further assent or permit, Declarant hereby reserves the right, exercisable from time to time, to subject other real property including, but not limited to, the Property described on Exhibit B attached hereto to the Restrictions set forth herein, in order to extend the scheme of this Declaration to other Property to be developed and thereby to bring such additional Properties within the jurisdiction of the Association. If the Property described on Exhibit B attached hereto is legally subdivided and a plat or plats recorded in the Mecklenburg County Public Registry reflecting such subdivision, the Declarant shall subject such Property to the provisions hereof by a supplementary Declaration(s) as provided below.

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 Property and thereby subject such addition to assessment for its just share of the Association's and the Master Association's expenses. Each supplementary Declaration may contain such complementary additions and modifications of these Restrictions as may be necessary to reflect the different character of the added Property; 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; and provided, further, that any such additional Property made subject to the terms and provisions hereof shall also be made subject to the terms and conditions of the Master Declaration by appropriate supplemental Declaration thereto.

### ARTICLE III

#### Association Membership and Voting Rights

Section 1. Membership. (a) Every person or entity who is

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purchasing one or more Lots under a contract or purchase agreement within the Properties shall be a Member of the Association, subject to and bound by the Association's Articles of Incorporation, Bylaws, rules and regulations. The foregoing is not intended to include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Ownership (of record or under a contract or purchase agreement) of such Lot shall be the sole qualification for membership. When any Lot is owned of record in tenancy by the entirety or tenancy in common or by some other legal form of multiple ownership, or when two or more persons or other legal entity is purchasing one or more Lots under a contract or agreement of purchase, the membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section 2 hereinbelow.

(b) During any period in which a Member shall be in default in the payment of any annual, special or other periodic assessment levied by the Association or the Master Association, the voting rights and right to the use of the Common Areas or any other facilities which the Association and the Master Association may provide may be suspended by the Board of Directors until such assessment is paid. In the event of violation by a Member of any rules or regulations established by the Board of Directors, such Member's voting and use rights may be suspended by the Board after a hearing at which the general requirements of due process requirements shall be observed. Such hearing shall only be held by the Board (or a committee thereof) after giving the Member ten (10) days' prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of violation shall be made by a majority vote of the Board of Directors of the Association or a Committee thereof.

(c) No membership fee shall be charged, nor shall Members be required to pay at any time any amount to carry on the business of the Association except to pay when due the charges, assessments and special assessments levied upon each Member's Lot as specified in the Declaration and the Master Declaration, or as the Members of the Association or the Master Association may from time to time hereafter adopt.

Section 2: Voting and Voting Rights. (a) The voting rights of the membership shall be appurtenant to the ownership of Lots. The ownership of each Lot by a Person other than the Declarant shall entitle its Owner to one vote. The ownership of each Lot by the Declarant shall entitle the Declarant, as Owner, to three votes.

When two or more persons hold an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by one of such persons as proxy and nominee for all persons holding an interest in a Lot and in no event shall more than one (1) vote be cast with respect to any Lot, nor shall any fractional vote be cast.

(b) Any Member who is delinquent in the payment of any charges duly levied by the Association or the Master Association against a Lot owned by such Member shall not be entitled to vote until all such charges, together with such reasonable penalties as the Board of Directors of the Association or the Master Association may impose, have been paid.

(c) Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Lot. A corporate Member's vote shall be cast by the President of the Member corporation or by any other officer or proxy appointed by the President or designated by the Board of directors of such corporation.

(d) Voting on all matters except the election of directors shall be by voice vote or by show of hands unless a majority of the Members present at the meeting shall, prior to voting on any matter, demand a ballot vote on that particular matter. Where directors or officers are to be elected by the Members, the solicitation of proxies for such elections may be conducted by mail.

#### ARTICLE IV

##### Common Area Property Rights

Section 1. Every Owner (by virtue of Membership in the

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Association and the Association's membership in the Master 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, the Master Declaration and the Charter and Bylaws of the Master Association, that certain contract to convey to be entered into between Raintree Corp. and the Master Association, that certain Contract of Leaseback to be entered into between the Master Association and Raintree Corp., and the following:

(a) The right of the Association and the Master Association to limit the use of the Common Area to Owners, their families and guests and to the members of other homeowners associations within the Village of Raintree Planned Unit Development.

(b) The right of the Association and the Master Association to suspend the voting and enjoyment rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of the Association's published rules and regulations;

(c) The right of the Master 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 Master Association in accordance with the terms and provisions of the Master Declaration.

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.

## ARTICLE V

### Covenants for Maintenance Assessments

Section 1. Annual Assessment for Maintenance Fund. For each Lot owned within the Properties, 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 (for payment to the Master Association in accordance with the terms of the Master Declaration):

(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 Master Association or the Members, 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 of property within the area overseen and administered by such Sub-Associations which purposes may include maintenance, landscaping and beautification of the Common Areas. Pursuant to Article IV, Section 3 of the Master Declaration, 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 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 or the Master 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. In accordance with Article V of the Master Declaration, and in order to secure payment at and after the due

date, 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, cost and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such property 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 and under Article V of the Master Declaration shall not apply to the Common Area, nor shall they 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 Lot 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 and 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 Master Association as set forth in Article V of the Master Declaration.

(b) In accordance with Article V of the Master Declaration, until April 1, 1984, the maximum annual assessment shall be \$132.00 per year. The annual assessment set by the Master Association shall not exceed the maximum annual assessment.

(c) In accordance with Article V of the Master Declaration, from and after April 1, 1984, the annual assessment may be increased in accordance with the terms and conditions of such Master Declaration.

Section 6. Special Assessments. In addition to the annual assessment set forth above and authorized by the Master Declaration, the Master Association may levy, in any assessment year, a special assessment applicable to that year only, provided that any such assessment shall only be levied in accordance with the terms and conditions of the Master Declaration.

Section 7. Declarant. Notwithstanding the foregoing, Declarant shall at no time be required to pay more than \$66.00 per year per Lot in the form of annual maintenance assessment and special assessments.

Section 8. Date of Commencement of Annual Assessment; Due Dates; Certificate of Payment. Annual assessments provided for in the Master Declaration and as set forth herein shall begin to accrue at the time and in the manner set forth in the Master Declaration. 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 9. 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 or the Master Association, or either of their agents or representatives, 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. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The liens provided for herein and in the Master Declaration shall be subordinate to the lien of any deed of trust (sometimes herein-after 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 a 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 Master 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.

Section 11. Collection of Assessments. The Association shall promptly collect all assessments due from Owners pursuant to the terms and provisions hereof and of the Master Declaration. The Association shall promptly remit all such assessments so collected to the Master Association to be used for the maintenance of Common Areas and other matters as set forth in the Master Declaration.

## ARTICLE VI

Architectural, Maintenance And Use Restrictions

The Declarant shall have the responsibility of enforcing the restrictions set forth in this Article prior to the formation of the Committee, which, upon appointment, shall assume and be responsible for enforcement. References in this Article to Committee shall mean the Declarant until the Committee is appointed. The following architectural, maintenance and use restrictions shall apply to each and every Lot now or hereafter subject to this Declaration:

Section 1. Approval of Plans and Architectural Committee.

(a) No construction, reconstruction, remodeling, alteration or addition to any structure, building, fence, wall, road, drive, path or improvement of any nature shall be constructed without obtaining the prior written approval of the Committee as to location, plans and specifications. As a prerequisite to consideration for approval, and prior to beginning the contemplated work, two (2) complete sets of building plans and specifications must be submitted to the Committee. The Committee shall be the sole arbiter of such plans and may withhold approval for any reason including purely aesthetic considerations. Upon giving approval, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans. The Committee shall be entitled to stop any construction in violation of these restrictions. In the event the Committee fails within forty-five (45) days to approve or disapprove such plans and specifications, approval will not be required, and this Section will be deemed to have been fully complied with. The Committee shall have the right to charge a reasonable fee for receiving each application for approval of plans and specifications in an amount not to exceed \$50.00.

(b) Until such time as Declarant divests itself of all Lots within the Properties, Declarant shall appoint from time to time the members of an Architectural Committee (the "Committee") to consist of not less than three (3) nor more than seven (7) members

which shall exercise authority to approve plans and other matters set forth in this Article. After Declarant divests itself of all Lots within the Properties, Committeemen shall be elected by a majority of the votes of the Association Members, cast in person or by proxy at a meeting duly called for this purpose, but provided that the Committeemen originally appointed may serve until their successors are so elected.

Section 2. Design and Site Approval. Buildings shall be erected on Lots in a manner to provide architectural value to the subdivision. Therefore, no house, garage, carport, playhouse, outbuilding, fence, wall or other above-ground structure shall be commenced, erected or maintained nor shall any exterior addition to, change in or alteration of any of said structures be made, until a site plan, final plans and specifications showing the nature, kind, shape, height, materials, basic exterior finishes, and colors and floor plans thereof, proposed driveway location and front, side and rear elevations thereof, have been submitted to and approved in writing by the Committee as to harmony of exterior design and general quality with the existing standards of the neighborhood and as to location in relation to surrounding structures and topography. The Committee shall act with all reasonable promptness upon receipt of such information to approve or disapprove the same. In the event the Committee rejects such plans and specifications as submitted, the Committee shall so inform the Owner in writing stating with reasonable detail the reasons for disapproval and the Committee's recommendations to remedy same.

Section 3. Subdivision of Lots. By or with the written consent of the Committee, one or more Lots (as shown on the applicable plat) or parts thereof, may be subdivided or combined to form one single building Lot; provided, however, in such event, each of the resulting Lot or Lots shall contain at least eighty percent (80%) of the total area of each of the original Lots prior to such subdivision.

Section 4. Improvement, Setback and Use Restrictions.

(a) All structures must be built to comply substantially with the plans and specifications as approved by the

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Committee, and before any house may be occupied it must be completely finished and a certificate of completion must have been issued by the local or state authority empowered to do so.

(b) Minimum setback lines shown on the recorded plat of the Properties are not intended to engender uniformity of setbacks; they are meant to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve important trees, and assure vistas of water and open areas. The Committee reserves the right to select the precise site and location of each house or other structure on each Lot and to arrange the same in such manner and for such reasons as the Committee shall deem sufficient. No building or structure or any part thereof shall be located on any Lot nearer to the front line or nearer to a side street line than the minimum setback lines shown on said recorded map or nearer than six (6) feet to any interior lot line.

(c) For the purpose of determining compliance with the foregoing building line requirements, open porches, eaves and steps extended beyond the outside wall of a structure shall not be considered a part of the structure, provided that this provision shall not be construed to authorize or permit encroachment upon another Lot or upon any easements or rights-of-way.

(d) The ground floor heated living area of the main structures upon any Lot exclusive of open porches, porticos, garages, carports and breezeways, shall not be less than 1,100 feet for a one-story dwelling, nor shall any dwelling of multiple stories or floor levels be permitted having a total heated living area of less than 1,100 square feet unless by prior consent of the Committee.

(e) Boundary walls, excluding party walls, may be erected and hedges grown but they shall be no higher than three (3) feet in the area between the street right-of-way and the minimum building setback line, and no fence of any type shall be permitted between the street right-of-way and the minimum building setback line. Fences, boundary walls and hedges shall not exceed six (6) feet in height in the area between the minimum building

setback line and the rear property line unless the prior consent of the Committee is given.

(f) No building or structure of any type, permanent or otherwise, shall be located on any Lot nearer to any part of the golf course or the shore line of any lake or pond than as may be shown on the recorded plat designating such Lot and the setbacks pertaining thereto, provided in the event the recorded plat does not designate such setbacks, then no such building or structure shall be located on any Lot nearer than twenty-five (25) feet to any part of the golf course or the shore line of any lake or pond. For this purpose, the shore line shall be construed as the mean high-water mark.

(g) Swimming pools shall not be located nearer than ten (10) feet to any Lot line and must be located to the rear of the main dwelling.

(h) Incinerators for garbage, trash or other refuse shall not be used or permitted to be erected or placed on any Lot. Any and all equipment, coolers, woodpiles, garbage cans, refuse or storage piles placed on a Lot (whether temporary or permanent) shall be walled in to conceal same from the view of neighboring Lots, roads, streets, the waterfront or open areas. Plans for all screens, walls and enclosures must be approved by the Committee prior to construction.

(i) No lumber, brick, stone, cinder block, concrete or other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot except for the purpose of construction on such Lot and shall not be stored on such Lot for longer than the length of time reasonably necessary for the construction to completion of the improvement in which same is to be used.

(j) Subject to the provisions of Subsection (k) below, no exposed above-ground tanks will be permitted for the storage of fuel or water or any other substance.

(k) Except with the prior written approval and permission of the Committee, no water well shall be sunk or drilled on any Lot. However, Declarant reserves the right to locate



wells, pumping stations and tanks within residential areas or any open space, or on any Lot designated for such use on any recorded plat.

(1) No outside radio transmission tower or receiving antenna shall be erected by an Owner and no outdoor television antenna may be erected or installed if cable television reception is available to a Lot. If cable television service is not available to a Lot, then the customary outdoor television receiving antenna may be installed with the prior approval of the Committee, provided such outdoor antenna shall thereafter be taken down and removed by the Owner when and if cable television receiving service shall later be provided.

(m) No docks, piers or similar structures shall be constructed without the Committee's written approval. Quays paralleling the shore line may be constructed upon obtaining the Committee's prior written approval as to location, design and construction which approval shall be discretionary. Such approval by the Committee for the construction and placement of structures in or upon navigable waters shall not obviate the necessity of an Owner obtaining approval by appropriate State or Federal agencies whose approval is required.

(n) No Owner shall excavate or extract earth from any of the Lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots. No Lot shall be increased in size by filling in the water it abuts.

(o) No privies or outside toilet facilities shall be constructed or maintained on any Lot without prior written approval of the Committee. Any individual sewage disposal system ("septic tank") permitted by the Committee (any other provisions herein or any other written statement to the contrary notwithstanding) shall also be of a type approved or recommended by the State and local Departments of Health and shall be maintained by each Owner at all times in the proper sanitary condition in accordance with applicable State and County sanitation laws. Upon completion of such approved facilities, all plumbing and other

sanitary systems must be approved as installed by the Committee in addition to State and local health officials.

(p) All residential utility service lines (including, without limitation, electricity, telephone, any and all types of radio and television lines, cables, etc.) to the Lots shall be underground; provided, however, this restriction shall not be construed to prohibit the installation or construction of one or more central utility service relay towers in the event such is, in the Committee's sole discretion, deemed necessary.

(q) Stationary outside clotheslines will not be permitted and clothes handling devices such as lines, poles, frames, etc. shall be stored out of sight when not in use.

(r) Any mailboxes not attached to the main dwelling structure shall be of a type consistent with the character of the Properties and shall be placed and maintained to complement the houses in the neighborhood.

(s) No advertising sign of any kind whatsoever shall be erected upon or displaced or otherwise exposed to view on any Lot or any improvement thereon without the prior written consent of the Committee, except for a residence "For Sale" sign.

(t) No house trailer, boat, boat trailer, camper, tent, shed, or other such vehicle, trailer, vessel, or temporary structure shall be permitted on any Lot unless screened from view of adjoining Lots, streets and Common Areas, provided, however, temporary buildings and other structures shall be permitted during the construction period of houses or as a temporary real estate sales office for the sale of Lots. No garage, outbuilding or other appurtenant structure shall be used for residential purposes, either temporarily or permanently.

(u) Any deviation from the building line requirements set forth herein, not in excess of ten percent (10%) thereof shall not be construed to be a violation of said building line requirements. Setback provisions herein prescribed may be altered by the Committee whenever, in its sole discretion, the topography or configuration of any Lot in said subdivision so requires.

(v) Construction of any structure shall be completed within twelve (12) months from the date of commencement of construction thereof.

Section 5. Maintenance. (a) All Lots, together with the exterior of all improvements (if any) located thereon, shall be maintained in a neat and attractive condition by their respective Owners. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing and caring for roofs, gutters, downspouts, building surfaces, trees, shrubs, walks and other exterior improvements. In the event any Owner shall fail to maintain the premises and the improvement situated thereon in a manner satisfactory to the Committee, after approval by two-thirds (2/3) vote of the Association's Board of Directors, it shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings or any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject and such Owner shall be personally liable to the Association for the costs of such maintenance, and the costs, until paid, shall be a permanent charge and lien upon such Lot enforceable to the same extent and collectible as provided for in Article V, entitled "Covenant for Maintenance Assessments." Although notice given as provided in Section Nine of this Article shall be sufficient to give the Association the right to enter upon such Lot and perform such maintenance, entry for such purposes shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday. Such entry as herein provided shall not be a trespass, nor shall the Association be liable for doing anything reasonably necessary or appropriate in connection with carrying out these provisions.

(b) To preserve the natural integrity and beauty of the land, water runoff, etc., no trees, shrubs, bushes or other vegetation having a diameter of three (3) inches or more than twelve (12) inches above the ground shall be cut, destroyed or mutilated except with the prior written consent and permission of the Committee; provided, however, that dead or diseased trees,

shrubs, bushes or other vegetation shall be cut and removed promptly from any Lot by the Owner thereof after such dead or diseased condition is first brought to the attention of the Committee and permission of the Committee for such cutting and removal has been obtained.

Section 6. Residential Use. Unless otherwise designated by Declarant on a recorded plat, each Lot shown on said plat subject to this Declaration shall be used only for private, single-family residential purposes and not otherwise; provided, however, Declarant reserves the right to designate any areas shown on said plat other than such Lots for other purposes including without limitation commercial, institutional, business or multi-family uses.

Section 7. Hobbies and Activities. The pursuit of hobbies or other inherently dangerous activities including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkept conditions; the shooting of firearms, fireworks or pyrotechnic devices of any type of size; and such other activities shall not be pursued or undertaken on any part of any Lot or the Common Area without the consent of the Declarant and the Board of Directors of the Association.

Section 8. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, pastured or maintained on any Lot, except household pets which may be kept thereon in reasonable numbers as pets for the sole pleasure and purpose of the occupants but not for any commercial use or purpose. Birds shall be confined in cages.

Section 9. Nuisances and Unsightly Materials. No house or other structure on any Lot shall be used for commercial or business purposes. Each Owner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No noxious, offensive or illegal activity shall be carried on upon any Lot. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever; nor shall any substance, thing or material

be kept upon any Lot which will emit foul or noxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other debris for pickup by garbage and trash removal service units. In the event any Owner of any undeveloped Lot fails or refuses to keep such property free from any of the foregoing unsightly items, weeds or underbrush, the Association may, at its option, ten (10) days after posting a notice thereon or mailing a notice to said Owner at his property address requesting Owner to comply with the requirements of this Section, enter and remove all such unsightly items and growth at said Owner's expense, and Owner shall be personally liable to the Association for the costs of removal, and the costs until paid shall be a permanent charge and lien upon such Lot enforceable to the same extent and collectible as provided for in Article V, entitled "Covenant for Maintenance Assessments." By acquiring property subject to these restrictions, each and every Owner agrees to pay such costs promptly upon demand by the Association, its agents, assigns, or representatives. No such entry as provided in this Section shall be deemed a trespass. The provisions of this Section shall not apply to Lots upon which houses are under construction.

Section 10. Governmental Regulations. Each Owner shall observe all governmental building codes, health regulations, zoning restrictions and other regulations applicable to his Lot. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

## 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 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 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. Within ten (10) days' prior written notice to Owner, the Declarant or the Association shall have the right to enter on to 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 Master 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, the Association and the Master 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: 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 the vote of a majority in interest of the then Owners of the above described property to change, amend or revoke the Restrictions 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, thereby 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 at least two-thirds (2/3) of the Owners whose Lots are then subject thereto. 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 purchaser 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 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 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 Areas; provided, however, that any 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 his failure to perform or negligent performance of his obligation under these covenants 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.

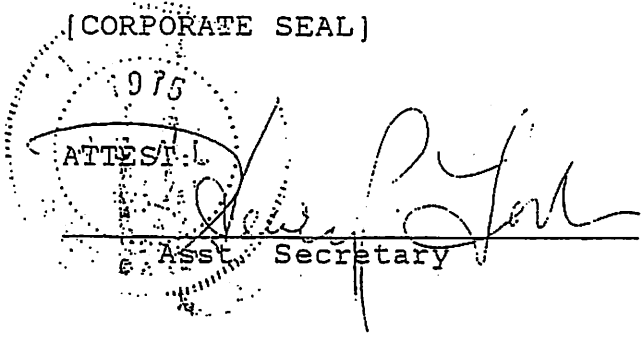
Section 5. Headings and Binding Effect. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying the particular Sections to which they refer. The covenants, agreements, and rights set forth herein shall be binding upon and inure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

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.

4693 0129

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants, Conditions and Restrictions to be duly signed this \_\_\_ day of July, 1983.

[CORPORATE SEAL]



RAINTREE CORP.

By J. M. Hall  
Vice President

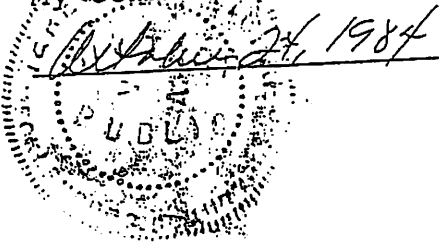
STATE OF North Carolina  
COUNTY OF Mecklenburg

This 14<sup>th</sup> day of July, 1983, before me, the undersigned Notary Public in and for the County and State afore-said, personally came Arthur 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 Arthur M. Franklin acknowledged said writing to be the act and deed of said corporation.

WITNESS my hand and notarial seal.

James L. DeLoach (Lee)  
Notary Public

My commission expires:



FEE 47.00  
<> 47.00  
CASH 47.00

9:58 #2700 000  
07/15/83

State of North Carolina, County of Mecklenburg  
The foregoing certificate(s) of Teresa L. DeTorre (Lee)

a Notary ~~Public~~ Public of said County and State  
is ~~not~~ certified to be correct. This 15 day of July, 19 83  
Charles E. Crowder, Register of Deeds, By Mary C. Rice DEPUTY

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 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.

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. 312.0 feet to a point; thence N. 24-06-40 W. 375 feet to a point; thence N. 0-52-05 E. 182.65 feet to a point; thence N. 28-00-20 W. 145.81 feet to a point; thence N. 63-09-10 W. 191.61 feet to a point; thence N. 34-29-20 W. 114.50 feet to a point; thence N. 11-59-34 W. 139.77 feet to a point; thence N. 21-21-04 W. 144.25 feet to a point; thence N. 46-55-56 E. 115.74 feet to a point; thence N. 21-07-06 E. 72.68 feet to a point; thence N. 5-48-14 W. 66.23 feet to a point; thence N. 22-35 W. 133.22 feet to a point, the southernmost corner of Lot 61 of Williamsburg as shown in Map Book 16 at Page 284; thence with the rear lines of Lots 61, 62, 63, 64, 65, 66, 67, 71, 72, 73, 74, and 86 of Williamsburg: (1) N. 67-35 E. 90.0 feet to a point; (2) N. 49-50 E. 195.0 feet to a point; (3) N. 47-45 E. 147.0 feet to a point; (4) N. 4-45 E. 130.0 feet to the common rear corner of Lots 63, 64, and 65 of Williamsburg as shown on Map Book 16 at Page 284 and Map Book 18 at Page 292; (5) N. 70 E. 265.0 feet to a point, the westernmost corner of Lot 71 of Williamsburg as shown in Map Book 18, Page 339; (6) thence S. 20-50 E. 250.0 feet to a point, the common rear corner of Lots 72 and 73; (7) thence S. 70-25 E. 135.0 feet to a point; (8) thence S. 88-00 E. 182.0 feet to a point, a common corner of Lots 74 and 86 of said Williamsburg; (9) thence S. 73-43-20 E. 162.39 feet to the point and place of BEGINNING, containing 31.98 acres as per survey of Bobby J. Raye, NCRLS, dated June, 1983, save and except the following described property:

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.