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STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
KENSINGTON

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PRESENTED
FOR
REGISTRATION
APR 26 1 38 PM '84
CHARLES E. SNOWDER
REGISTER OF DEEDS
MECKLENBURG CO. N.C.

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and published this 25th day of April, 1984, 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.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property within the Village of Raintree Planned Unit Development in the County of Mecklenburg, State of North Carolina more particularly described on the attached Exhibit A and incorporated herein by this reference, which property is to be subdivided into a subdivision to be known as "Kensington," and which property will be shown on plat maps 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 Kensington 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 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 The Kensington 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." Except where the context herein dictates expressly otherwise, Common Area(s) shall include Limited Common Area(s).

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 Mecklenburg County Public Registry.

Section 5. "Declarant" shall mean and refer to Raintree Corp., a North Carolina corporation, its successors and assigns, including Fortis as the purchaser of the Property from Declarant.

Section 6. "Fortis" shall mean The Fortis Corporation, a North Carolina corporation, its successors and assigns.

Section 7. "Limited Common Area(s)" shall mean and refer to any and all real property owned by the Association, or such other property to which the Association may hold legal title whether in fee or for a term of years, for the exclusive use, benefit and enjoyment of the Association subject to the provisions of this Declaration and as defined and bounded by properly referenced and recorded plat(s) designated thereon as "Limited Common Areas" or "Limited Common Open Space."

Section 8. "Lot" shall mean and refer to any lot of land or building site within Kensington upon which a single family attached dwelling unit (condominium or townhome) is to be constructed and as shown on a subdivision plat or plats to be filed of record in the Mecklenburg County Public Registry.

Section 9. "Master Association" shall refer to the Raintree South Homeowners Association, Inc., 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 10. "Master Declaration" shall refer to the Declaration of Covenants, Conditions and Restrictions for Raintree South filed of record in the Mecklenburg County Public Registry to which the Properties and all Owners are and shall be subject.

Section 11. "Member" shall mean and refer to any person or other entity who holds membership in the Association.

Section 12. "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 the Property, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.

Section 13. "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 14. "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 shall be commonly known as "Kensington."

Section 15. "Kensington" shall mean and refer to that certain residential subdivision known as Kensington which is being

developed on real property in Providence Township, Mecklenburg County, North Carolina, which is more particularly described on Exhibit A attached hereto, 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 Kensington.

Section 16. "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.

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 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 map or maps to be recorded in the Mecklenburg County Public Registry. 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 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. Anything above to the contrary notwithstanding, at such time as the Declarant conveys to Fortis all the property described on the attached Exhibit A, Fortis shall, without further action of the parties, succeed to and assume the rights of the Declarant under this Section 2.

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 any such Supplemental Declaration shall be substantially similar in form and content to this Declaration; 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 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, joint tenancy, 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 of the Master Association or the Board of Directors of the Association until such assessment is paid. In the event of violation by a Member of any rules or regulations established by the Board of Directors of the Association, such Member's voting and use rights may be suspended by the Board of Directors of the Association after a hearing at which the general requirements of due process shall be observed. Such hearing shall only be held by the Board of Directors of the Association (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 Association, or as

the Members of the Association and 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 Declarant shall entitle its Owner to one vote.

The ownership of each Lot by Declarant shall entitle Declarant to four (4) votes.

(b) 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 (except with respect to Lots owned by Declarant), nor shall any fractional vote be cast.

(c) 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 Board of Directors of the Master Association may impose, have been paid.

(d) 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, which designation must, if requested by the Association, be in writing.

(e) 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 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 the Bylaws of the Association,

the Master Declaration and the Charter and Eylaws of the Master Association, that certain contract of leaseback to be entered into between the Master Association and Raintree Corp. pertaining to certain golf course areas, that agreement(s) referred to in Section 3 hereof, 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 (in the case of Common Area but not Limited Common Area) 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 Association and the Master Association to dedicate or transfer 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 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.

Section 3. The Association and the Master 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 Raintree Corp. and Fortis (such approval by Fortis not to be unreasonably withheld) 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 has 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, 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 in part to the Master Association in accordance with the terms of the Master Declaration and for retention in part by the Association for certain expenses of maintenance in accordance with this Declaration):

(a) Annual assessments or charges in the amount herein-after set forth.

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

Section 2. Purpose of Assessments. The assessments levied by the Association or the Master Association shall be used to provide funds for (i) such purposes and common expenses as are for the benefit of the Sub-Associations and the owners of property within the area overseen and administered by the Sub-Associations which purposes may include maintenance, repair, insurance, landscaping and beautification of the Common Areas and (ii) certain maintenance expenses of the Association including, but not limited to, the exteriors of the dwelling units constructed or to be constructed on the Lots. Pursuant to Article IV, Section 3 of the Master Declaration and Article IV, Section 3 hereof, 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 to the extent more particularly set forth in the agreements entered into pursuant to Article IV, Section 3 above. 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, and related to the maintenance of the exteriors of dwelling units as afore-said, 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. In accordance with the terms and provisions hereof and 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

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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 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 Assessments and Maximums.

(a) Master Association Annual Maintenance Assessment.

(i) The annual maintenance assessment imposed by the Master Association shall be set each year by the Master Association as set forth in Article V of the Master Declaration.

(ii) In accordance with Article V of the Master Declaration, until April 1, 1984, the maximum annual assessment shall be as set forth in the Master Declaration and, thereafter, the annual assessment imposed by the Master Association may be increased in accordance with the terms and conditions of the Master Declaration.

(b) Association Annual Maintenance Assessment.

(i) The annual maintenance assessment imposed by the Association shall be set each year by the Association as set forth herein.

(ii) Until April 1, 1985, the maximum annual assessment imposed by the Association shall be \$660.00 per year. Thereafter, the annual assessment imposed by the Association may be increased above the maximum provided above if such increase is approved by no less

than three-fourths (3/4) of the total votes eligible to vote on Association matters in person or by proxy, at a meeting duly called for this purpose.

Section 6. Special Assessments.

(a) In addition to the annual assessment imposed by the Master Association set forth above, 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.

(b) In addition to the annual assessment imposed by the Association set forth above, the Association may levy, in any assessment year, a special assessment applicable to that year only, provided that such assessment shall have the same assent as provided in Section 5(b)(ii) of this Article.

Section 7. Declarant. Notwithstanding the foregoing, Declarant shall at no time be required to pay more than an aggregate of \$330.00 per year per Lot in the form of annual maintenance assessments imposed by the Association and special assessments imposed by the Association.

Section 8. Date of Commencement of Annual Assessment; Due Dates; Certificate of Payment.

(a) Annual assessments imposed by the Master Association provided for herein shall begin to accrue at the time and in the manner set forth in the Master Declaration.

(b) Annual assessment imposed by the Association shall begin to accrue as to all Lots upon the recordation in the Mecklenburg County Public Registry of any plat or plats setting forth the particular Lot configuration. 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 of the Association shall establish the amount of the annual assessment imposed by the Association against each Lot and in the event the Board of Directors of the Association 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 Association. The due dates for the payment of annual and special assessments imposed by the Association shall be established by the Board of Directors of the Association.

(c) 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 (whether

annual or special or imposed by the Association or the Master Association) 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 or 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 shall be subordinate to the lien of any first lien deed of trust (sometimes hereinafter called "mortgage" or first mortgage and the holder thereof being sometimes hereinafter referred to as a first mortgagee) 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 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 the Master Declaration. The Association shall promptly remit to the Master Association such assessments set forth above to which the Master Association is entitled to be used for the maintenance of Common Areas and other matters as set forth in the Master Declaration. The Association shall retain the assessments to which it is entitled for the purposes set forth herein.

ARTICLE VI

Architectural, Maintenance And Use Restrictions

Fortis 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 Fortis 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 Fortis divests itself of all Lots within the Properties, Fortis shall appoint from time to time the members of 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 Fortis divests itself of all Lots within the Properties, members of the Committee shall be elected by a majority of the votes of the Members, cast in person or by proxy at a meeting duly called for this purpose, but provided that the members of the Committee 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 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.

(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 900 feet for a one-story dwelling, nor shall any dwelling of multiple

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stories or floor levels be permitted having a total heated living area of less than 1000 feet unless by prior consent of the Committee.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

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

(j) 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.

(k) 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.

(l) 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.

(m) 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.

(n) 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.

(o) 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.

(p) 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.

(q) 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.

(r) 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.

(s) 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.

(t) 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.

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

Section 5. Party Walls. (a) Each wall which is built as a part of the original construction of the improvements made on Lots shown and described on a recorded plat of Kensington and is placed on the dividing line between any two Lots shall be deemed a party wall for the benefit of the Owner(s) of said Lots and shall be used for the joint purpose of the buildings separated thereby.

(b) The conveyance of each Lot separated from any other Lot by a party wall shall include an undivided interest in so much of the width of the entire length of said party wall separating such Lot from the adjoining Lot as is located on said Lot together with a grant of easement of lateral support for such part of said wall as is situated on the adjoining Lot; and there shall be reserved in the conveyance of each of such Lots a like easement of lateral support. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use. Whenever a party wall or any part thereof shall be rebuilt, it shall be constructed on the same site and shall be of the same size and of the same or similar materials of like quality as the party wall prior to such repair or reconstruction.

(c) If a party wall is destroyed or damaged by fire or other casualty, to the extent not covered by insurance, each Owner who has used the wall shall contribute to the cost of restoration thereof in proportion to such use.

(d) Notwithstanding any other provision of these restrictions, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements or damaged in any manner shall bear the whole cost of furnishing the necessary protection against such elements.

(e) Party walls constructed on the above-described Lot(s) shall remain party walls for the perpetual use and benefit of the Owners of the Lots burdened by such party walls and said Lots shall be conveyed subject to these Restrictions. The right of any Owner to contribution from any other Owner under these Restrictions shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Each Owner of a Lot upon which a party wall is located shall be entitled to the exclusive ownership and possession of his Lot as shown and described on the recorded plat of the property identified in Article I above, provided Owner shall not do any work which would jeopardize the soundness or safety of the party wall, reduce the value of the adjoining attached dwelling or impair any easement or other right of the adjoining Lot Owner(s) without the prior approval and consent of the adjoining Lot Owner affected by such work.

(g) Each Owner of a Lot upon which a party wall is located shall acquire title to such Lot subject to the right and reciprocal easement of the adjoining Lot Owner(s) to have the building or any part thereof as originally constructed by Fortis on the adjoining Lot to remain standing and Owner shall be deemed to consent and to grant unto the adjoining Lot Owner(s) the right to have any part of the improvements built as part of the original construction on the adjoining Lot to overlap and extend beyond the interior Lot line of Owner as shown on the recorded map thereof and to encroach over and above Owner's Lot to the same extent and in the same manner as the improvements overlap and encroach upon Owner's Lot upon completion of initial construction.

If any portion of the Common Area now encroaches upon any Lot or if any building improvement on a Lot now encroaches on any other Lot or on any portion of the Common Area, or if any such encroachment shall occur hereafter as a result of (i) repair, alteration or reconstruction of the Common Area made by or with the consent of the Association; (ii) repair or reconstruction of a residential dwelling following damage by fire or other casualty; or (iii) condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for its maintenance so long as the Association shall approve of it and the property shall remain subject hereto.

(h) Each Owner of a Lot over which the adjoining Lot Owner's building encroaches covenants and agrees for himself, his personal representatives, successors and assigns that Owner will not break, cut, disturb, destroy or remove any part of the improvement overlapping and encroaching upon or over his Lot as long as the improvement remains standing and is similar in materials and appearance to the original construction or improvements. Owner further covenants that these provisions shall be covenants running with the Lot and the covenants herein contained shall remain in force as long as improvements upon the adjoining Lot are substantially the same as originally constructed.

(i) No planting or gardening shall be done on any Common Area other than by the Association adjoining a Lot on which is located a dwelling having a party wall except as may be approved by the Board and the Committee. The use and enjoyment of all open space shall inure to the mutual benefit of all Owners and shall be subject to the Association's control.

(j) Each Owner of each Lot upon which a party wall is located shall acquire title to such property subject to the irrevocable right of the Board to have access to such Lot and the dwelling thereon, said right to access solely for the purpose of making emergency repairs, to perform its obligations as set forth in Section 6 below, or taking such action as may be necessary and required to prevent damage to the Common Area or to another Owner's Lot or dwelling.

(k) Each Owner of a Lot upon which a party wall is located shall also enjoy a non-exclusive easement and the right to the use and benefit of Common Areas providing access to Owner's Lot from the nearest dedicated public street without hindering or encroaching upon the rights of other Owners.

Section 6. Maintenance. (a) The Master Association, subject to the rights of Owners with respect to their individual Lots, shall be responsible for the exclusive management and control of the Common Areas (including furnishings and equipment related thereto), and, to the extent otherwise provided herein, the Association shall be responsible for the maintenance of the exteriors of dwelling units located on the Lots, and shall keep the same in good, clean, attractive and sanitary condition. The cost of such management operation, maintenance and repair by the Association shall be borne as provided in Article V.

(b) Maintenance, upkeep and repairs of any patio area associated with a dwelling unit located on a Lot shall be the sole responsibility of the individual Owners thereof. Such maintenance, upkeep and repairs are not in any manner the responsibility of the Association except as provided elsewhere herein.

In the event an Owner(s) shall fail to maintain his patio and any other improvements situated on his Lot in a manner satisfactory to the Board of Directors of the Association, after approval by two-thirds (2/3) vote of the Board of Directors of the Association, shall have the right, through its agents and employees, to enter upon said Lot to repair, maintain and restore the patio and the exterior of the dwelling unit and 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. In the event the Association should determine that such failure to maintain, upkeep and repair the patio is sufficiently

widespread as to result in the Association's desire to undertake such maintenance, upkeep and repair generally, then the Association shall so notify the Owners, and include the budgeted costs for such maintenance, upkeep and repair as an additional common expense chargeable, collectible and enforceable as additional assessments pursuant to the provisions of Article V.

Front, side and back portions of each Lot will be landscaped by Fortis and maintained by the Association. After the initial landscaping is installed by Fortis, no further landscaping, including without limitation the planting of new items or the removal of existing items, or other such changes in the appearance of such front, side and back portions of their Lots shall be permitted, except with the approval of the Committee as provided in Article VI. However, these portions of each Lot shall be for the exclusive use of the Owner, subject to the reasonable rights of the Association to enter upon and maintain said portions of each Lot and to have said areas kept in neat and orderly condition, as provided above in this Section.

(c) For purposes of maintenance, repair, alteration and remodeling, an Owner shall have the obligation to pay assessments to the Association to maintain, repair, alter and remodel his individual Lot. The obligation to maintain any privacy fence or other structure enclosing a patio, balcony, storage room, yard or deck area shall be that of the Owner. No Owner shall, however, make any changes or alterations of any type or kind whatsoever to the exterior surfaces of his dwelling unit or to other improvements on his Lot without the prior approval of the Committee pursuant to Article VI hereunder. An Owner shall maintain or, as directed by the Association, pay assessments to maintain, and keep in good repair and in a clean, safe, attractive and sightly condition, the Lot and his dwelling unit, including landscaping. An Owner shall reimburse the Association for any expenditure (including deductible amounts under insurance policies) incurred for replacing or repairing any parts of the Common Area damaged through the fault of an Owner, or the Owner's guests, invitees or tenants, and the Association shall be entitled to assess such Owner for such amounts which shall be payable, collectible and enforceable in the same manner as additional assessments pursuant to Article V. If any Owner fails to carry out or neglects the responsibilities set forth in this Section, the Association may fulfill the same and charge such Owner therefor, and such amounts so charged shall be payable, collectible and enforceable in the same manner as assessments pursuant to Article V.

(d) The Association shall provide exterior maintenance upon each Lot which is subject to assessment thereunder as follows: paint, repair, replace and care for roof, gutters, downspouts, exterior building surfaces, walks, landscaping, maintenance of the front, side and rear Lots, except patio areas, and other similar exterior improvements. Such exterior maintenance shall not include the maintenance or the repair of entry doors, frames or sliding glass doors and windows, which shall be

the sole responsibility of the Owner. Determination of whether such repair or maintenance is the obligation of the Association shall rest solely with the Association, which shall have the sole responsibility for determining the kind and type of materials used in such repair and maintenance.

In the event that the need for maintenance and/or repair of a Lot and its improvements or of the Common Area and its improvements is caused through the willful or negligent acts of the Owner, his family, guest or invitees, the cost of such maintenance and/or repairs shall be added to and become a part of the assessment to which each Owner is subject, as further set forth in Article V hereunder.

(e) 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 or greater 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 Association 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 7. 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 8. 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 or 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 Declarant and the Board of Directors of the Association.

Section 9. 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 10. 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 11. 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 may be reserved by Declarant for itself and its successors and

assigns along, over, under and upon such portion of said Lots as shall, in Declarant's sole discretion, be reasonably necessary to provide adequate drainage and utility services thereto, which easements shall be 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 the Association, except for those improvements for which a public authority or utility company is responsible. Within ten (10) days' prior written notice to Owner, 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, 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. 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 Raintree Corp., Fortis, the Association, 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

Insurance

Section 1. Comprehensive General Liability and Property Insurance. Comprehensive general liability and property damage insurance shall be purchased by the Board of Directors of the Association and shall be maintained in force at all times, the premiums thereon to be paid by the Association as a common expense. If Fortis pays the premium, it shall be entitled to reimbursement from the Association. The insurance shall be carried with reputable companies authorized to do business in the State of North Carolina, in such amounts as the Board may determine; the insurance carrier should have a current rating by Best's Insurance Reports of VI or better, or a financial rating of Class VI and a general policyholder's rating of at least A. If the insurer does not meet this rating requirement, the insurer must be reinsured by a company that does have a current rating by Best's Insurance Reports of VI or better.

A comprehensive policy of general liability insurance shall be in force for a minimum amount of \$1,000,000 per occurrence, covering all claims for bodily injury and/or property damage arising out of a single occurrence, such coverage to include protection against liability for non-owned and hired automobiles, liability for property of others, and, if applicable, host liquor liability and other risks which are customarily covered with projects similar in construction, location and use. The policy or policies shall name as insured all of the Owners and the Association. Fortis shall also be named as an additional insured on such policy or policies until such time as Fortis shall have conveyed all the Lots within the Property to unrelated third-party purchasers. The policy or policies shall insure against loss arising from perils in both the Limited Common Areas and on the Lots and shall include contractual liability coverage to protect against such liabilities as may arise under the contractual exposure of the Association or its Board of Directors.

The policy or policies shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying a claim of an Owner or the Association because of negligent acts of the Association or other Owners.

Section 2. Fire and Hazard Insurance. Fire and other hazard insurance shall be purchased by the Board of Directors of the Association and shall thereafter be maintained in force at all times, the premiums thereon to be paid by the Association as a common expense, such policy to cover all Limited Common Areas and all Lot improvements in the Properties. Policies shall provide for a standard noncontributory mortgagee clause in favor of each first mortgagee whether or not named therein and shall provide that the policy cannot be cancelled by either the insured or the insurance company until after ten (10) days' prior written notice to all insureds thereunder, including each Owner and each first

mortgagee. The policies shall also provide that the interest of each first mortgagee in the insurance shall not be invalidated by any action or neglect of the Board of Directors of the Association, Owners or their tenants, invitees or agents. The policies shall further provide for waiver by the insurer of any policy provisions which would render the mortgagee clause invalid by reason of failure of the mortgagee to notify the insurer of any hazardous use or vacancy in any dwelling unit and any policy requirement that the mortgagee pay the premium thereon. The policy or policies shall be of a master or blanket type with a standard all risk endorsement, and insure against loss from perils therein including coverage on all of the improvements in the Properties, except such as may be separately insured, and except land, foundation, excavation and other items normally excluded from coverage. Such policy or policies shall contain extended coverage, vandalism and malicious mischief endorsements. The improvements located on Lots and Limited Common Areas to be insured under this clause shall be continually insured to value, and the policy or policies shall contain replacement cost insurance. If reasonably available, the policy or policies shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild. The policy or policies shall name as insured all of the Owners, the Association and Declarant, so long as Declarant is the Owner of any Lots. The policy or policies shall also cover personal property owned by the Association or in common by the Owners, their tenants, invitees or agents, and shall further contain a waiver of subrogation rights by the carrier as to negligent Owners. If Declarant pays the premium for said policy or policies, it shall be entitled to reimbursement from the Association.

The insurance shall be carried with reputable companies authorized to do business in the State of North Carolina, in such amounts as the Board of Directors of the Association may determine. The insurance carrier should have a current rating by Best's Insurance Reports of VI or better or a financial rating of Class VI and a general policyholder's rating of at least A. If the insurer does not meet this rating requirement, the insurer must be reinsured by a company that does have a current rating by Best's Insurance reports of VI or better.

Section 3. No Individual Fire Insurance. Except as expressly provided in this clause, no Owner shall separately insure his dwelling unit or any part thereof against loss by fire or other casualty covered by the insurance carried under Section 2 above. Should any Owner violate this provision, any diminution in insurance proceeds resulting from the existence of such other insurance and/or failure to have the proceeds of such insurance payable pursuant to the provisions of Section 2 shall be chargeable to the Owner who acquired such other insurance, who shall be liable to the Association to the extent of any such diminution and/or loss

of proceeds. Such liability may be enforced as an assessment lien under Article V.

The blanket policy or policies to be carried by the Association and referenced under Section 2 above must provide that it is primary over any policy or policies separately carried by an individual Lot Owner and that proceeds of the individual policy or policies carried by such Owner shall only be used to the extent that the proceeds of the insurance carried by the Association are insufficient to cover any losses to the Lot.

Section 4. Owner's Personal Liability and Property Insurance. An Owner may carry such personal liability insurance, in addition to that herein covered, as such Owner may desire. In addition, any improvements made by an Owner to a Lot, as well as the personal property of the Owner, may be separately insured by such Owner, such insurance to be limited to the type and nature of coverage often referred to as "Tenant's Improvement and Betterments." All such insurance separately carried shall contain waiver of subrogation rights by the carriers as to negligent Owners.

Section 5. Fidelity Insurance Coverage. The Association shall provide for fidelity coverage against dishonest acts on the part of the Officers, Directors, Management Contractors, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event less than 1.5 (one and one-half) times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any person or persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. If requested by an Owner or first mortgagee, such policies shall additionally provide that the policies cannot be cancelled by either the insured or the insurance company until after ten (10) days' prior written notice to all who have requested such notice.

Section 6. Flood Insurance. In the event the Property is or shall become located in an area identified by the Federal Emergency Management Agency (FEMA) as an area having special flood hazards, a "blanket" policy of flood insurance on the Property must be maintained in the amount of 100% of current "replacement cost" of all such buildings and other insurable property or the maximum limit of coverage available, whichever is less. The name of the insured under each required policy must be stated in form and substance similar to the following:

"The Kensington Homeowners Association, Inc. for use and benefit of the individual Owners and their first mortgagees."

Section 7. Other Insurance. The Board of Directors of the Association may purchase and maintain in force as a common

expense, debris removal insurance, plate or other glass insurance, fidelity bonds and other insurance or bonds that it deems necessary. The Board of Directors of the Association shall purchase and maintain worker's compensation insurance to the extent that the same shall be required by law respecting employees of the Association.

Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for such project established by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association and Government National Mortgage Association, so long as any are a mortgagee or Owner of a Lot within the Properties, except to the extent such coverage is not available or has been waived in writing by any or all of the above.

Section 8. Attorney-In-Fact. The Association is hereby appointed the attorney-in-fact for all Owners to negotiate loss adjustment on the policy or policies carried by the Association under this Article IX.

Section 9. Proceeds. The Association shall receive the proceeds of any casualty insurance payments received on the policies obtained and maintained pursuant to this Article. To the extent that repairs and reconstruction are required herein and there is a determination that the Properties shall not be rebuilt, the proceeds shall be distributed in the manner provided in Article X regarding casualty damage or destruction.

Section 10: Notice of Cancellation or Modification. The policy and/or policies required by this Article must provide that they cannot be cancelled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association, and to each holder of a first mortgagee which has requested in writing that it be listed as a scheduled holder of a first mortgage in the insurance policy.

Section 11. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board of Directors of the Association to ascertain whether the coverages contained in the policies are sufficient for the upcoming year, whether any necessary repairs or replacements of the property which occurred in the preceding year were covered by insurance, and that all possible insurance claims have been filed.

Section 12. Deductibles. No insurance policy applicable to either fire or extended coverage shall contain a deductible clause which exceeds the greater of:

(a) \$500.00

(b) One percent (1%) of the face amount of the policy.

If an Owner, who by a negligent or willful act, causes damage to the Common Area or other Properties which are insured as a common expense, then said Owner shall bear the whole cost of the deductible required in the blanket insurance policy for the Association or the Master Association on the Common Area and other such Properties. An Owner shall be responsible for any action of members of his family, his tenants or his guests which cause damage to said Common Areas or other Properties.

Section 13. Directors' and Officers' Liability Insurance. The Association shall maintain adequate liability coverage to protect against any negligent act upon the part of the Directors or Officers of the Association.

Section 14. Waivers. All such policies of insurance shall contain waivers of subrogation and waivers of any defense based on an invalidity arising out of the acts of a Member of the Association.

ARTICLE X

Casualty

Section 1. Association as Agent and Attorney-In-Fact. All of the Owners irrevocably constitute and appoint the Association as their true and lawful agent and attorney-in-fact in their name, place and stead for the purpose of dealing with the Property upon its damage, destruction and/or condemnation as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Association as agent and attorney-in-fact as herein provided.

Section 2. General Authority of Association. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and construction of the Limited Common Area as used in this Article means restoring the Property to substantially the same condition in which it existed prior to damage. The proceeds of any insurance collected shall be used by the Association for the purpose of repair or reconstruction unless Owners, to which at least 67% of the votes are allocated, and 67% of the first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

Section 3. Notices and Cost Estimates. As soon as practical after an event causing damage to, or destruction of any dwelling unit located on a Lot or any part of the Common Area, or any other part of the Property, the Association shall provide the first mortgagees of affected Lots within the Property notice of such damage, and the Association shall immediately obtain estimates that it deems reliable of the cost of repair or reconstruction of that part of the Property damaged or destroyed.

Section 4. Insurance Proceeds Sufficient to Repair. In the event that proceeds from insurance coverage are sufficient to cover the cost of repair or reconstruction after a casualty pursuant to the estimate of costs obtained by the Association, then such repair or reconstruction shall be promptly performed by the Association as attorney-in-fact for the Owners pursuant to this Article.

Section 5. Insurance Proceeds Insufficient to Repair. If insurance proceeds are insufficient to repair or reconstruct the damaged or destroyed Property, the following provisions shall govern:

(a) Partial Damage. For the purpose of this Article X, total destruction is defined as such damage or destruction as to render, in the judgment of the Board of Directors of the Association, all of the dwelling units within the Property untenable. Any damage or destruction less than total destruction is defined as partial damage for the purpose of this Article X. The partial damage to the Property, whether insurance proceeds shall be sufficient to cover the same or not, shall be repaired as promptly as possible by the Association as attorney-in-fact, and any cost of such repair or reconstruction in excess of insurance proceeds available, shall be assessed against all Owners as a common expense pursuant to Article V.

(b) Total Destruction. In the event of total destruction of the dwelling units within the Property as defined in subparagraph (a) above, and the further event that insurance proceeds are estimated to be insufficient to repair and reconstruct in the judgment of the Board of Directors of the Association, the Board of Directors of the Association shall advise all Owners of such decision, which notice shall advise of the special meeting of the Owners, pursuant to the Articles of Incorporation and By-laws of the Association, which meeting shall be held as soon as reasonably possible after the date of the casualty, for the purpose of determining whether or not the repair or reconstruction should be done. The dwelling units within the Property shall be reconstructed unless 67% of the ownership interests, plus 67% of the first mortgagees, agree in writing to sell the entire remaining Property as hereinafter provided. Any necessary assessment made in connection with the plan shall be a common expense and charged as an assessment to each Owner during the course of reconstruction at the times deemed necessary or desirable by the Board. Any such assessment shall be an obligation of each Owner and a lien on such Owner's Lot and shall be enforced and collected as a common expense pursuant to Article V. If at least sixty-seven percent (67%) of the ownership interests and at least sixty-seven (67%) percent of the first mortgagees agree in writing, the entire Property shall be sold by the Association, as attorney-in-fact, free and clear of the provisions contained in this Declaration and other related documents. In such case, the insurance proceeds payable as a result of the casualty and the sale proceeds, if any, shall be apportioned between the Owners on

a percentage basis determined by dividing the original purchase price of each Lot and dwelling unit located thereon by the total purchase price of all Lots and dwelling units in the Property. Such apportioned proceeds shall be paid into separate accounts, each account representing one Lot. Each such account shall be in the name of the Association and shall be further identified by the dwelling unit number designation and the name of the Owner. The Association, as attorney-in-fact, shall use and disburse the total amount of such separate account without contribution from one account to another as follows:

(a) For payment of taxes and special assessment liens in favor of any assessing entity and customary expenses of sale;

(b) for payment of the balance of the lien of any first mortgage;

(c) for payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;

(d) for payment of junior liens and encumbrances in the order and to the extent of their priority; and

(e) the balance remaining, if any, shall be paid to the Owner.

ARTICLE XI

Condemnation

Section 1. Consequences of Condemnation. If at any time during the continuance of the ownership pursuant to this Declaration, all or any part of the Properties shall be taken, or condemned by any public authority, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the provisions of this Article shall apply.

Section 2. Proceeds and Notice. All compensation, damages or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award" shall be payable to the Association; provided, however, that the Association shall provide timely notice of such condemnation proceeding or condemning authority acquisition to all first mortgagees of record of Lots and dwelling units within the Properties who request such notice.

Section 3. Complete Taking. In the event that the entire Property is taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the ownership pursuant thereto shall terminate. The Condemnation Award shall be apportioned among the Owners on the same basis as set forth in Section 5(b) or Article X hereof, provided that if a standard different from the value of the Property as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or

otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable determine the shares of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner and order as is provided in subsections (a) through (e) of Section 5(b) of Article X hereof.

Section 4. Partial Taking. In the event that less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: (a) as soon as practicable the Association shall reasonably and in good faith allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts so allocated to taking of or injury to the Limited Common Areas and be apportioned among Owners on an equal basis, (b) the total amount allocated to severance damages shall be apportioned to those Lots which were not taken or condemned, (c) the respective amounts allocated to the taking of or injury to a particular Lot and/or improvements an Owner had made within his own Lot shall be apportioned to the particular Lot involved, and (d) the amount allocated to consequential damages and other takings of injuries shall be apportioned as the Association determines to be equitable in the circumstances. No reallocation of interests in the Limited Common Areas resulting from a partial condemnation of the Property may be completed without the prior approval of the Owners to which fifty-one percent (51%) of the votes are allocated, and sixty-seven percent (67%) of the first mortgagees of all remaining dwelling units, whether existing in whole or in part. If an allocation of the Condemnation Award is already established in negotiation, judicial decree or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective mortgagees of record.

Section 5. Reorganization. In the event a partial taking results in the taking of a complete Lot, the Owner thereof automatically shall cease to be a Member of the Association.

Section 6. Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article X above.

ARTICLE XII

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; 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 amended 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 the Association, the Master Association or 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. The violating party shall be responsible for all costs and attorneys' fees incurred by the Association, the Master Association or such other Owner in such action. Any failure by the Association, the Master Association 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 its failure to perform or negligent performance of its 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. Succession of Rights and Obligations. Anything hereinabove to the contrary notwithstanding, at such time as Raintree Corp. has conveyed to Fortis all of the Property described on the attached Exhibit A, and without further action of the parties, Fortis shall succeed to and assume all the rights and obligations of Raintree Corp. as same as set forth in this Declaration; whereupon the rights and obligations of Raintree Corp. hereunder shall thenceforth terminate.

Section 6. 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 7. 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 and of the Board of Directors of the Association) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

4828 0064

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants, Conditions and Restrictions to be duly signed this 25th day of April, 1984.

[CORPORATE SEAL]

RAINTREE CORP.

By

[Signature]
Vice President

ATTEST:

[Signature]
Asst. Secretary

FEE	56.00
<>	56.00
CASH	56.00

13:58 #3281 000
04/26/84

STATE OF

Georgia

COUNTY OF

Okeefe

This 19 day of April, 1984, before me, the undersigned 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 Vice President acknowledged said writing to be the act and deed of said corporation.

WITNESS my hand and notarial seal.

Amelie C. Lewis

Notary Public

My commission expires:

1-22-88

State of North Carolina, County of Mecklenburg
The foregoing certificate of Amelie C. Lewis

a Notary ~~xxx~~ Public ~~xxx~~ for ~~xxxxxx~~ Georgia, State at Large
is ~~xxx~~ certified to be correct. This 26 day of April, 1984
Charles E. Crowder, Register of Deeds, By: Margaret ~~xxxxxx~~ Assistant

See Page 66

EXHIBIT A

REAL ESTATE
BOOK PAGE

4828 0066

BEGINNING at a new iron pin in the westerly margin of the right-of-way of Four Mile Creek Road, said point being in a southwesterly direction the arc of a circular curve to the left having a radius of 542.53 feet, an arc distance of 29.05 feet from the southeasterly corner of Lot 38 of Southbury Section 1 as shown on a map thereof recorded in Map Book 20 at Page 332 in the Mecklenburg Public Registry; thence with the margin of Four Mile Creek Road in a southwesterly direction with the arc of a circular curve to the left having a radius of 542.53 feet, an arc distance of 466.67 feet to a point; thence continuing with the margin of Four Mile Creek Road S 34-18-21 E 390.25 feet to an existing iron pin; thence eleven (11) courses and distances as follows: (1) S 72-47-09 W 182.10 feet to an existing iron pin; (2) N 68-23-21 W 304.76 feet to an existing iron pin; (3) N 37-33-38 W 525.81 feet to an existing iron pin; (4) N 46-08-18 E 123.30 feet to an existing iron pin; (5) N 10-26-29 E 203.02 feet to an existing iron pin; (6) N 19-16-54 W 143.20 feet to an existing iron pin; (7) N 3-30-30 E 138.41 feet to an existing iron pin; (8) N 26-30-00 E 116.87 feet to a new iron pin; (9) S 24-06-46 E 157.42 feet to a new iron pin; (10) S 47-44-22 E 324.01 feet to a new iron pin and (11) S 78-00-35 E 39.65 feet to the point and place of BEGINNING, containing 8.890 acres according to a survey by James W. Bogan, N.C.R.L.S., dated March 22, 1984, reference to said survey being hereby made for a more particular description

BEING a portion of the property conveyed to ARDC Franciscan Terrace, Inc., the predecessor in interest to Grantor herein, by Deed recorded in Book 3762 at Page 34 in the Mecklenburg Public Registry.