

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
VILLAGE OF RAINTREE

PRESENTED 31

FOR  
REGISTRATION

1971 MAR 26 PM 1 05

SECTIONS 1A THROUGH 1D AND 2A THROUGH 2E

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

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, (hereinafter sometimes referred to as "Declaration") is made and published this 26 day of March, 1971, by and between The Ervin Company, a Delaware corporation having a principal place of business located at 4037 East Independence Boulevard, Charlotte, North Carolina (hereinafter referred to as "Developer") and any and all persons, firms or corporations hereafter acquiring any of the within described property.

WITNESSETH:

WHEREAS Developer is the owner of a subdivision in the County of Mecklenburg, State of North Carolina, known as Village of Raintree, plats of Sections 1A through 1D and 2A through 2E of said subdivision being shown and delineated by a survey prepared by Bobby J. Rape, dated February 22, 1971, which plats are recorded in the Mecklenburg Public Registry as indicated below:

Section	Map Book	Page	Section	Map Book	Page
1A	15	211	2A	15	219
1B	15	213	2B	15	221
1C	15	215	2C	15	223
1D	15	217	2D	15	225
			2E	15	227

WHEREAS it is in the best interest of Developer, 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 Developer desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the real property in the Raintree community; and for the continued maintenance and operation of such recreational and common areas as may be provided;

NOW, THEREFORE, in consideration of the premises, the Developer 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 meanings:

1. "Association" shall mean and refer to Raintree Homeowners Association, Inc., a nonprofit corporation organized and existing under the laws of the State of North Carolina, its successors and assigns.
2. "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 non-exclusive use, benefit and enjoyment of the members of the Association subject to the provisions of the Declaration, Raintree Country Club Membership Agreement and the lease, if any, between the Association and Developer of the golf course and other recreational or open space land. 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 shown on the plat(s) of Raintree and designated thereon as "Common Areas" or "Common Open Space."
3. "Declaration" shall mean and refer to the 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.
4. "Developer" shall mean and refer to The Ervin Company, a Delaware corporation having a principal place of business at 4037 East Independence Boulevard, Charlotte, North Carolina, its successors and assigns.
5. "Lot" shall either mean and refer to any plot of land to be used for single-family residential purposes and so designated on any subdivision plat or survey of Raintree or any part thereof which shall be of public record, or ownership of any condominium within Raintree under unit ownership arrangement or agreement, or any land within Raintree devoted to multi-family rental purposes and subject to the Declaration.
6. "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 Village of Raintree, excluding, however, those parties having such interest merely as a security interest for the performance of an obligation.
7. "Properties" 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 being developed by Developer in Providence Township, Mecklenburg County, North Carolina, which subdivision is and shall be commonly known as the Village of Raintree.
8. "Member" shall mean and refer to any person or

other entity who holds membership in the Association.

9. "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.

10. "Raintree" shall mean and refer to that certain residential community known as Village of Raintree which is being developed on real property now owned by Developer in Providence Township, Mecklenburg County, North Carolina, together with such additions thereto as may from time to time be designated by Developer whether or not such additions are contiguous with or adjoin the boundary lines of Raintree - Sections 1A through 1 D or Sections 2 A through 2 E, as shown on the subdivision Plat(s) referred to hereinabove.

11. "Raintree Country Club" shall mean and refer to any and all improvements, land and appurtenances thereto within Raintree incident or connected in any way with the Golf Course and other recreational facilities provided on or near the club house including without limitation tennis courts, swimming pools and related facilities.

## ARTICLE II

### PROPERTIES SUBJECT TO THIS DECLARATION

Section One. 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 and shown on a boundary survey prepared by Bobby J. Rape, dated February 22, 1971, which said survey is shown and delineated on plats recorded in the Mecklenburg Public Registry as indicated below:

<u>Section</u>	<u>Map Book</u>	<u>Page</u>	<u>Section</u>	<u>Map Book</u>	<u>Page</u>
1A	15	211	2A	15	219
1B	15	213	2B	15	221
1C	15	215	2C	15	223
1D	15	217	2D	15	225
			2E	15	227

Only the specified Lots and Common Area(s) shown on the designated subdivision map of Raintree as above described are hereby made subject to this Declaration, provided, however, Developer reserves the right to subject other real property in Raintree to the restrictions set forth herein as provided below.

Section Two. Without further assent or permit, Developer 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 as part of Raintree; and thereby to bring such additional properties within the jurisdiction of the Association.

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 their just share of the Association's expenses. Each supplementary Declaration may contain such complementary additions and modifications of the Covenants, Conditions and Restrictions contained herein as may be necessary to reflect the

different character of the added properties; provided, however, any such supplemental Declaration or any such other Declaration shall not revoke or otherwise amend the provisions of this Declaration as this Declaration pertains to the properties subjected hereto.

### ARTICLE III

#### ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

##### Section One. Membership.

1. Every person or entity who is the Owner of record of a fee interest in any Lot or 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, By-Laws, rules and regulations. For this purpose, ownership of a condominium under any unit ownership arrangement or agreement shall be deemed ownership of a Lot. 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 such Lot shall be the sole qualification for membership. When any Lot is owned of record in joint tenancy or tenancy in common or by some other legal entity, 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 as to such Lot(s) shall be joint and the right of such membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section Two hereinbelow.

2. 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, the voting rights and right to the use of the Common Areas or any other facilities which the 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 member 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 or the Committee thereof.

3. No membership or initiation 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, the By-Laws, or as the Members of the Association may from time to time hereafter adopt.

##### Section Two. Voting and Voting Rights.

1. The voting rights of the membership shall be appurtenant to the ownership of the Lot. There shall be two classes of Lots with respect to voting rights:

A. Class A. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. The voting rights appurtenant to the Class A Lots shall

be as follows:

(1) Multi-family apartment buildings. Each Lot used for the development thereon of multi-family apartment building(s) shall entitle the Owner(s) of said Lot to one-half (1/2) of one vote for each completed private dwelling unit within the apartment building(s) located upon said Lot. To qualify as "completed" the private dwelling unit within the apartment building must be occupied, available for immediate occupancy, or temporarily unavailable for occupancy on account of repairs, maintenance work or restoration. A Lot reserved and designated for the development of multi-family apartment building(s) but not containing at least two completed private dwelling units shall be allotted one (1) vote.

(2) Single-family attached dwelling units (including condominium). Each Lot designated as a Lot on which a single-family attached dwelling unit (i. e. townhouse, patio house, or condominium) is or may be constructed shall entitle the Owner(s) of said Lot to three-fourths (3/4) of one vote.

(3) Single-family detached homes. Each Lot designated as a Lot on which a single-family detached home is or may be constructed shall entitle the Owner(s) of said Lot to one (1) vote.

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.

B. Class B. Class B Lots shall be all Lots owned by Developer which have not been converted to Class A Lots as provided in (1) or (2) below. Developer shall be entitled to four (4) votes for each Class B Lot reserved and designated for the development of a single-family detached home and three (3) votes for each Class B Lot reserved and designated for the development of a single-family attached dwelling unit (including condominium units) and one-half (1/2) vote for each completed private dwelling unit within an apartment building(s) located on each Class B Lot reserved and designated for the development of a multi-family apartment building(s). The Class B Lots shall cease to exist and shall be converted to Class A Lots on the happening of either of the following events, whichever first occurs:

(1) When the total number of votes appurtenant to the Class A Lots equals the total number of votes appurtenant to the Class B Lots; or

(2) Ten (10) years from the execution of the Declaration of Covenants, Conditions and Restrictions. In the case of additional memberships being created by annexation of additional land and the platting of same, the tests of (1) and (2) above shall be applied separately to each portion of the annexed lands and the test under (2) shall be ten (10) years from the time Developer records a supplementary Declaration annexing such lands.

2. Any Member who is delinquent in the payment of any charges duly levied by the 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 may impose, have been paid.

3. 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.

4. 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 of each Class 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 One. Every Owner shall have a non-exclusive 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 and the Charter and By-Laws of the Association, including but not limited to, the following:

1. The right of the Association to limit the use of the Common Area to Owners, their families, and guests;

2. The right of the 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;

3. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least two-thirds (2/3) of the votes appurtenant to Class A Lots and Class B Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this paragraph shall not preclude the Board of Directors of the Association from granting

easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Properties.

4. In the event Developer leases the land underlying Raintree Country Club, the right of the Developer to regulate as hereinafter described the use of Raintree Country Club.

Section Two. 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 Three. Every Owner shall have an interest in all of the property owned by the Association as is represented by the ratio of the number of votes to which said Member is entitled to the total number of votes, both Class A and Class B Members, in the Association.

#### ARTICLE V

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section One. 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 therefore, whether or not is so expressed in such deed, is deemed to covenant and agree to pay to the Association:

1. Annual assessments or charges for the creation and continuation of a maintenance fund in the amount hereinafter set forth:
2. Special assessments as approved by the members, to be established and collected as hereinafter provided.

Section Two. Purpose of Assessments. The assessments levied by the Association shall be used to provide funds for such purposes as the Association may determine are for the benefit of its Members, which purposes may include maintenance, landscaping and beautification of the Common Areas. Funds may also be used to provide other services for the Association Members to promote the health, safety and welfare of the residents of the community and in particular for the acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area, including but not limited to the cost of repair, replacement and additions thereto; the cost of labor, equipment, materials, management and supervision thereof; the payment of taxes assessed against the Common Area; the procurement and maintenance of insurance; the employment of attorneys; accountants and

other professionals to represent the Association when necessary or useful; the employment of security personnel to provide any service which is not readily available from any governmental authority; and such other needs as may arise.

Section Three. Creation of the lien and personal obligation of assessment. In order to secure payment at and after 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 attorney's fees to the extent permissible by law. Each such assessment, together with such interest, costs and reasonable attorney's 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 Four. Exempt property. The assessments, charges and liens created under this Article V shall not apply to the Common Area, nor shall it apply to any Lot the title to which is vested either in any first mortgagee subsequent to foreclosure or in the Secretary of Housing and Urban Development or the Administrator of Veteran's Affairs or any other State or Federal governmental agency which acquires title by reason of such agency's guarantee or insurance of a foreclosed mortgage loan provided however, that upon the resale of such property by such first mortgagee or such governmental agency the assessment herein provided shall again commence and accrue and shall be fully applicable to such Lot upon the conveyance to any subsequent Owner. Any Lot which Developer may hereafter designate for common use as part of the Common Area or otherwise shall be exempt from the assessments and charges created herein. In addition, all property dedicated to and accepted by a local public authority, all land granted to or used by a utility company, all properties owned by a charitable or nonprofit organization exempt from taxation under the laws of the State of North Carolina, and all Common Area leased to Developer for the purpose of Raintree Country Club shall be exempt from the assessments created herein.

Section Five. Maximum annual Maintenance assessment. Until December 31, 1971, the maximum annual maintenance assessment (excluding any sum an Owner may be obligated to pay to the operator of Raintree Country Club [whether such operator is the Association or a lessee from the Association] as provided for in Article IX of this Declaration) shall be One Hundred Twenty (\$120.00) Dollars per Lot (subject to the modifications of such rate as set out in Section Seven of this Article) irrespective of whether the assessed Lot is restricted by this Declaration as initially filed for record or is made subject to this Declaration as an "addition" as provided for by Article II, Section Two.

1. From and after January 1, 1972, the maximum annual assessment may be increased or decreased effective January 1 of each year without a vote of the membership in conformance with the rise or decline, if any, of the Consumer Price Index as published by the U. S. Department of Labor for the Charlotte, North Carolina area. The initial index from which adjustments to future assessments shall be computed shall be the index figure published by the Department of Labor nearest January 1, 1971, and thereafter adjustments shall be computed on the basis of the latest index figure nearest to January 1 of each consecutive year. If the publication of the Consumer Price Index is discontinued, the Association shall use comparable statistics on the cost of living in Charlotte as computed and published by an agency of the United States or by a financial periodical of recognized authority then to be selected by the Association Board of Directors. The Consumer Price Index figure to be utilized is the index figure for all items.



2. From and after January 1, 1972, the annual assessment may be increased by the Association Board of Directors to an amount which will be sufficient, in the judgment of the Board, to provide funds required by the Association in carrying out its stated purposes and functions for the ensuing calendar year; provided, however, in no event shall the annual assessment as adjusted by the Board exceed 125(%) percent of the amount of the annual assessment for the immediately preceding calendar year without the consent and assenting vote of two-thirds of each class of the Association members.

3. From and after January 1, 1972, the annual assessment may be increased above the maximum provided in subparagraphs (1) and (2) above and without limitation upon such increase if approved by no less than two-thirds (2/3) of the votes of each Class of membership cast in person or by proxy, at a meeting duly called for this purpose.

Section Six. Special assessments.

In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, provided that any such assessment shall have the same assent of the members as provided in Section 5 (3) of this Article.

Section Seven. Assessment rate. Excepting exempt property, both annual and special assessments for the Lots, shall be fixed at uniform rates as follows:

1. Single-family detached homes. Each Lot designated as a Lot on which a single-family detached home is or may be constructed shall be assessed at a rate of One Hundred percent (100%) of any annual or special assessment fixed or levied pursuant to Section 5 or Section 6 of this Article.

2. Single-family attached dwelling units (including condominiums). Each Lot designated as a Lot on which a condominium unit, single-family attached townhouse or patio house is or may be constructed shall be assessed at a rate of Seventy-Five percent (75%) of any annual or special assessment as may be fixed or levied.

3. Multi-family apartment buildings. Each Lot used for the development thereon of multi-family apartment building(s) shall, upon the completion of two or more private dwelling units in said building(s), be assessed for each completed private dwelling unit, and each such unit shall be assessed at a rate of Fifty percent (50%) of any annual or special assessment levied or fixed against the Lot. To qualify as "completed", the private dwelling unit within the multi-family apartment building must be occupied, available for immediate occupancy, or temporarily unavailable for immediate occupancy on account of repairs, maintenance work or restoration. Prior to the completion of two private dwelling units within the multi-family apartment building(s) upon a Lot, said Lot shall be assessed at a rate of One Hundred percent (100%) of such assessment as may be fixed or levied against the Lot.

Section Eight. Notice and quorum for any action authorized under Section Five and Six. Written notice of any meeting called for the purpose of taking any action authorized under Sections Five and Six of this Article shall be sent to all members not less than 10 days nor more than 60 days in advance of the meeting.

The first such meeting called, the presence in person or by proxy of members entitled to cast 60% of all the votes of each Class shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than six (6) months following the preceding meeting.

Section Nine. Date of commencement of annual assessment: Due Dates: Certificate of Payment. Annual assessments provided for herein shall commence as to all Lots on the first day of the month following the filing of the Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each Lot and in the event the Board elects not to fix such assessment rate as herein provided, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed assessment rate shall be sent to every Owner. The due dates for the payment of annual and special assessments shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid to date.

Section Ten. Effect of non-payment of Assessment: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum legal rate and to the extent allowed by law. The Association, its agent or representative, 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 attorney's 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 nonuse of the Common Area or abandonment of his Lot.

Section-Eleven. Subordination of the lien to mortgages. The liens provided for herein shall be subordinate to the lien of any deed of trust (sometimes hereinafter called "mortgage") on any Lot if, but only if, all such assessments with respect to such Lot having a due date on or prior to the date such mortgage is filed for record have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to assessments authorized hereunder having a due date subsequent to the date such mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such mortgage or the sale or transfer of the mortgage property pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the mortgage 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 but senior to the equity of redemption of the mortgagor or trustor and in parity with the lien of the Raintree Country Club as provided in Article IX below. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

## ARTICLE VI

### ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

The Developer 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 Developer until the Committee is appointed. The following architectural, maintenance and use restrictions shall apply to each and every Lot now or hereafter subjected to this Declaration:

#### Section One. Approval of Plans and Architectural Committee.

1. 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 Developer 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. Committee shall be entitled to stop any construction in violation of these restrictions so long as Developer owns any lot within "Raintree". In the event the Committee fails within 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.

2. At such time as Developer divests itself of all lots within Raintree, or not later than December 31, 1975, whichever comes sooner, Developer shall appoint from time to time the members of an Architectural Committee (the "Committee") to consist of not less than three nor more than seven members which shall exercise authority to approve plans until January 1, 1980. After January 1, 1980, the Committeemen shall be elected by a majority of the votes of Association members, both Class A and Class B, 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 Two. 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 property owner in writing stating with reasonable detail the reasons for disapproval and the Committee's recommendations to remedy same.

Section Three. Subdivision of lots. By or with the written consent of the Committee, one or more lots (as shown on said map) or parts thereof, may be subdivided or combined to form one single building lot, provided, however, in such event, the resulting lots shall not be smaller in total area than either of the original lots prior to such subdivision.

Section Four. Improvement, Set back and Use Restrictions.

1. 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 be issued by the Committee.

2. (a) 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 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 than the minimum setback lines shown on said recorded map or nearer than five (5) feet to any interior lot line, provided however, as to lots that subsequently become subject to this Declaration as an "addition" which are designated for attached or semi-attached dwellings, any such building, structure or appurtenances thereon may abut upon and be incorporated into any party wall and there shall be no side line setback requirements as to lot side lines upon which party walls are constructed.

(b) For the purpose of determining compliance with the foregoing building line requirements, porches, wing-walls, eaves and steps extended beyond the outside wall of a structure shall not be considered as part thereof. However, this provision shall not be construed to authorize or permit encroachment upon any easements or rights-of way.

3. The ground floor living area of the main structure upon any Lot, exclusive of open porches, porticos, garages, carports, and breezeways, shall not be less than 2,000 square feet for a one story dwelling, nor shall any dwelling of multiple stories or floor levels be permitted having a total area less than 2,000 square feet.

4. Boundary walls, excluding party walls, may be erected and hedges grown but no higher than three (3') feet from the street right-of way to the minimum building setback line. 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 from the minimum building setback line to the rear property line.

5. 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 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.

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

7. Incinerators for garbage, trash or other refuse shall not be used nor 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.

8. 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.

9. Subject to the provisions of Article VI Section Four, 10, below, no exposed above-ground tanks will be permitted for the storage of fuel or water or any other substance.

10. Except with the prior written approval and permission of the Committee, no water well shall be sunk or drilled on any Lot. However, Developer 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.

11. No outside radio transmission tower or receiving antenna shall be erected by an Owner within the restricted property, and no outdoor television antenna may be erected or installed if Developer shall provide cable television reception 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 a cable television receiving service shall later be provided by Developer.

12. No docks, piers, or similar structures shall be constructed without the Committee's prior 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 a property owner obtaining approval by appropriate State or Federal agencies whose approval is required.

13. No Owner shall excavate or extract earth from any of the lots subject to this Declaration for any business or other 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.

14. No privys or outside toilet facilities shall be constructed or maintained on any lot without prior written approval of the Committee. Any individual sewerage 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.

15. 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.

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

17. Any mail boxes not attached to the main dwelling structure shall be of a type consistent with the character of Raintree and shall be placed and maintained to compliment the houses in the neighborhood.

18. No advertising sign of any kind whatsoever shall be erected upon or displayed or otherwise exposed to view on any lot or any improvement thereon without the prior written consent of the Committee.

19. No house trailer, boat, boat trailer, camper, tent, shed, or any 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 of Developer for the sale of lots. No garage, outbuilding or other appurtenant structure shall be used for residential purposes, either temporarily or permanently.

20. Any deviation from the building line requirements set forth herein, not in excess of 10% thereof, shall not be construed to be a violation of said building line requirements. Setback provisions herein prescribed may be altered by the Developer whenever in its sole discretion the topography or configuration of any lot in said subdivision will so require.

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

#### Section Five. Maintenance.

1. 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 an Owner shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Committee, after approval by two-thirds (2/3) vote of the Association 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 and 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 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 purpose 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.

2. 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 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 property owner thereof after such dead or diseased condition is first brought to the attention of the Committee and permission for such cutting and removal has been obtained.

Section Six. Residential Use. Unless otherwise designated by Developer on a recorded plat, each Lot shown on said subdivision plan subject to this Declaration shall be used only for private, single family residential purposes and not otherwise, provided, however, Developer 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 Seven. 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 other such activities shall not be pursued or undertaken on any part of any Lot or the common area without the consent of the Developer or Association.

Section Eight. 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 Nine. 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 such debris for pickup by garbage and trash removal service units. In the event any Owner of any developed 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 paragraph, 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, their agents, assigns, or representatives. No such entry as provided herein shall be deemed as a trespass. The provisions of this section shall not apply to lots upon which houses are under construction.

Section Ten. 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 One. 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 Two. Utility and Drainage. An easement on each Lot is hereby reserved by the Developer 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, under and upon a strip of land five (5') feet in width parallel and contiguous to each side Lot line, in addition to such other easements as may appear on the aforementioned recorded subdivision plat(s). The purpose of these easements shall be to provide, install, maintain, construct and operate drainage facilities now or in the future and utility service lines to, from or for each of the individual subdivision Lots. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels in the easements.



The easement area of each Lot and all improvements in it shall be maintained continuously by Owner, except for those improvements for which a public authority or utility company is responsible. With ten (10) days prior written notice to Owner, Developer may exercise the rights reserved in Section Four of this Article for the purpose of removing obstructions in such easements upon Owner's failure to do so. For the purpose of this covenant, the Developer 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 Developer; provided, however, local service from utilities within easement areas to residences constructed upon any such Lots may be established without first obtaining separate consents therefor from the Developer. The Association may likewise reserve and grant easements for the installation and maintenance of sewerage, utility and drainage facilities in, across, under and over the Common Area.

Section Three. Emergency. There is hereby reserved without further assent or permit, a general easement to all policemen and security guards employed by Developer, 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 One. Right of First Refusal. To assure a community of congenial Owners and thus protect the value of the Lots in Raintree any Owner who desires to sell or lease any Lot or Lots, either improved or unimproved, shall first offer the same for sale or lease to Developer at the same price and on the same terms at which the highest bona fide offer has been made to the Owner therefor. An Owner desiring to sell or lease any Lot shall give Developer notice via certified mail, return receipt requested, of his desire to sell or lease such Lot(s) together with such other information as may be requested. Within thirty (30) days thereafter, Developer may (1) approve the transaction; (2) furnish a purchaser or lessee approved by the Association who will accept the transaction upon terms as favorable as those stated in the notice; (3) purchase or lease upon the same terms and conditions subject to the right of the Developer to obtain an appraisal which shall govern if the appraised value is less than the price at which the Owner intended to sell or lease; or (4) fail to respond in which event the transaction will be deemed approved. The right of first refusal granted by this Declaration to Developer shall extend to the first five (5) years following the date of this Declaration and thereafter the Association shall automatically succeed to Developer's rights under this Section One for the remaining duration of this Declaration. This right of first refusal does not apply to the holder of a first mortgage or deed to secure debt upon the exercise of any power of sale or upon becoming the Owner of a Lot. Provided, however, that in any event, such sale or lease shall remain subject to the covenants and restrictions of this Declaration.

Section Two. 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

## RAINTREE COUNTRY CLUB

Section One. Membership. It is intended that the golf course land within Raintree shall be leased to Developer, who, upon leasing said land and for the term thereof, shall manage and operate the Raintree Country Club, (the Club) for the non-exclusive use of Owners, tenants in multi-family structures within Raintree and others. Use of the Club shall be according to the class of membership selected by each member as set forth in the Membership Agreement made between such member and the Club. For the purposes of this Article, the term "the Club" means the manager of Raintree Country Club. Every person or entity, other than the Developer,

who is the Owner of a fee interest in any Lot or who is purchasing a Lot under a contract or purchase agreement shall be a member of the Club, subject to and bound by the terms and conditions of the Club's Membership Agreement. Every Owner agrees to execute the Club's Membership Agreement upon the purchase of any Lot within the Properties.

Section Two. Use and Enjoyment. Each Owner shall have the right and privilege to designate one Family Unit to use and enjoy the facilities of the Club. Such privilege shall be exercisable by only one Family Unit for each Lot at any given time, regardless of the number of persons who shall own an interest in a Lot at any given time. The Club Management reserves the privilege to invite such other persons to use and enjoy the facilities of the Club as it may chose, and to establish such fees and dues for both Owners and for such persons as are not Owners, as it may deem reasonable and necessary for the sound operation of the Club.

Section Three. Definition of "Family Unit". "Family Unit" shall mean a natural person, his or her spouse, and their children who reside in Raintree. Other individuals who permanently reside with a family unit in Raintree may, at the discretion of the Developer be designated as a part of the "Family Unit" of a Lot Owner.

Section Four. Creation of the Lien and Personal Obligation for Dues. The charges, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a permanent charge and continuing lien upon Owner's Lot in favor of the Club, and shall also be and become the joint and several personal obligations of each Owner at the time the charges are payable. Each Owner covenants, and by the acceptance of a deed, contract for deed, or other conveyance of a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Club as and when due such charges as shall be stated in the Club Membership Agreement.

Section Five. Suspension of Privilege. The Club shall have the right to suspend the privilege to use and enjoy the Club's facilities in respect to any member who shall fail to make timely payment of the Charges, or shall fail to observe any of the rules or regulations promulgated by the Club and shall have the right to post notice of such suspension in a conspicuous place upon the Club property.

Section Six. Effect of Non-Payment of Dues: Remedies of the Club. If the charges are not paid on the date when due, then such charges, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge and continuing lien on the Owner's Lot, and shall bind such property in the hands of the then Owner, his heirs, legal representatives, successors and assigns. The personal obligation of the then Owner to pay the charges, however, shall remain his personal obligation and shall not pass as a personal obligation to his successor in title unless expressly assumed by such successor in title. If such successor in title assumes such prior Owner's personal obligation, such prior Owner shall nevertheless remain as fully obligated as

before to pay to the Club any and all amounts which he was obligated to pay immediately preceding the transfer in the event the new Owner assuming the Charges fails to pay them. Such prior Owner and such successor in title assuming such liability shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such prior Owner and such successor in title to the contrary.

The Charges not paid when due as hereinabove provided shall bear interest from the due date thereof at the maximum legal rate allowable under North Carolina law, and the Club may bring legal action against the Owner personally obligated to pay same. As to any Purchaser of a Lot under a Real Estate Purchase Agreement who, prior to payment of the deferred payment price and delivery of the deed to the Lot, defaults in the payment of the Charges, such Purchaser shall also be deemed to be in default of said Real Estate Purchase Agreement and the Club shall be entitled to pursue the remedies set out in said Agreement. After title to the Lot has been conveyed to Owner, in the event of default in the payment of any of the Charges, the Club shall be entitled to pursue any and all remedies afforded at law or in equity, including, without limitation, summary process, the right to foreclose the Club's lien against the Owner's Lot and to bring any personal action against Owner for the collection of such as a debt. The Club shall have the power to bid in the Lot at any such foreclosure or other public sale, and to acquire, hold, lease, mortgage or convey same.

Section Seven. Subordination of the Charges and Liens to Mortgages.

(a) The lien and permanent charge of the Club dues together with interest thereon and costs of collection thereof, authorized herein with respect to any Lot is hereby made subordinate to the lien of any first deed of trust (mortgage) placed on such Lot if, but only if, all such dues with respect to such Lot having a due date on or prior to the date such mortgage is filed for record have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to dues 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 of the same or transfer of the mortgaged property pursuant to a sale under power contained in such mortgage.

(b) Such subordination is merely a subordination and shall not relieve the Owner of the mortgaged property of his personal obligation to pay all Charges coming due at a time when he is the Owner; shall not relieve such Lot from the lien and permanent charge provided for herein (except to the extent a subordinated lien and permanent charge is extinguished as a result of such subordination as against a first mortgage or such mortgagee's grantee by sale under a power or foreclosure); and no sale or transfer of such Lot to the mortgagee or to any other person pursuant to a decree of foreclosure, or pursuant to any proceeding executing upon the property, shall relieve any existing or previous Owner of such Lot or the then and subsequent Owners from liability for any Charges coming due after such sale or transfer.

(c) The sale at foreclosure (or under a power of sale) of the first mortgage shall extinguish the lien as to unpaid charges arising prior to such sale, but, to the extent permissible at law, the Club shall have a lien on the proceeds of sale junior only to the lien of the foreclosed first mortgage, senior to

Owner's equity of redemption, and in parity with the lien of assessments provided for in Article V of this Declaration.

(d) Notwithstanding the foregoing, the Club may at any time either before or after any mortgage or mortgages are placed on such Lot, waive, relinquish or quit-claim in whole or in part the right of the Club to charges owing with respect to Owner's Lot coming due during the period while such property is or may be held by a mortgagee or mortgagees pursuant to such sale or transfer.

Section Eight. Ownership of Country Club. During the term of the lease to Developer of land for Raintree Country Club, the right to manage and operate the Club, including without limitation, golf course, fairways, buildings, swimming pools, tennis courts, and other recreational facilities the Club may provide, shall be exclusively in the Developer. In the event the term of Developer's lease expires (whether at its dated duration or otherwise) prior to the duration of this Declaration, then the Owners (other than Developer) shall remain members with the privileges and responsibilities of membership (including the obligation to pay dues and charges) as provided for by this Article IX. In such event, dues and charges shall inure to the benefit of and be collectible by the Association, its successors and assigns and such dues and charges shall be independent of the assessments for maintenance as provided for in Article V of this Declaration. Developer's obligations to manage and operate the Club and its right to dues and charges shall terminate at the expiration of any such lease. At the expiration of such lease, the Association shall operate the Club in its own right or it may lease the Club to some third party to operate and manage it for the non-exclusive use and enjoyment of Club Members. No one shall, by the recording of the plats of Raintree, referred to in the first preamble of this Declaration, or subsequent plats of sections in Raintree, or by any use of the Club or ownership of a Lot, in reliance on this Declaration or otherwise, have any proprietary right, title or interest in and to such property.

## ARTICLE X

### GENERAL PROVISIONS

Section One. 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 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 Two. Amendment. The covenants and restrictions of this Declaration, as they pertain to the Lots and other properties shown on the map referred to in Article II, Section One, 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 Developer, 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 hereto, and by the then operator of the Raintree Country Club (for this purpose if the Club property is under lease, the lessee is the operator). 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. 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, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided herein.

Section Three. 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 within Raintree 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 provisions of this Section are in addition to and separate from the rights of the Association and the Club to collect Association fees and Club charges, respectively. Any failure by Developer or any property 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 Four. Delegation and Assignability. Developer shall at all times and from time to time have the right to delegate any and all functions herein reserved to Developer. Further notwithstanding any other provision contained herein to the contrary, Developer 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 properties; provided, however, that any such transferee, grantee or assignee shall take such rights subject to all obligations of Developer also herein contained in respect thereto and such transferee, grantee or assignee shall be deemed to have assumed the same. In the event of any such sale, transfer or conveyance, said Developer 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. Developer shall not, however, be liable to any person for any injury or loss resulting from failure of performance or negligent performance of Developer's obligations under these covenants arising after such sale, transfer or conveyance.

Section Six. 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 or adding to the particular paragraphs to which they refer. The covenants, agreements and rights set forth herein shall be binding upon and enure to the benefit of the respective heirs, executors, successors and assigns of the Developer and all persons claiming by, through or under Developer.

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

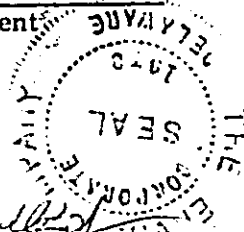
IN WITNESS WHEREOF, the Developer has caused this Declaration of Protective Covenants and Restrictions to be duly signed this 26 day of March, 1971.

THE ERVIN COMPANY

By: Wm. S. Michael  
Vice President

Attest:

Wm. S. Michael  
Assistant Secretary



STATE OF NORTH CAROLINA, COUNTY OF MECKLENBURG

This 26 day of March, 1971, before me, the undersigned Notary Public in and for said County and State, personally came Wm. S. Michael, who, being by me duly sworn, says that he is Vice President of The Ervin Company; that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation; 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 instrument to be the act and deed of said corporation.

WITNESS my hand and notarial seal.

Verta W. Barrett  
Notary Public



My Commission expires: May 22, 1975

STATE OF NORTH CAROLINA      The foregoing  
COUNTY OF MECKLENBURG      certificate(s)

of Verta W. Barrett

a Notary Public of said County and State  
is ~~xxx~~ certified to be correct.  
This 26th day of March 19 71.

Recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ and Verified.  
CHARLES E. CROWDER, Register of Deeds

By Margie King  
Deputy 227