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PRESENTED
FOR
REGISTRATION

99 JAN 15 PM 4:10

LAURA M. RIDDICK
REGISTER OF DEEDS
WAKE COUNTY

Drawn by and HOLD FOR:
PERRY, PATRICK, FARMER & MICHAUX, P.A. (mj) 000773

STATE OF NORTH CAROLINA

COUNTY OF WAKE

**DECLARATION SUBJECTING
PHASE TWO
TO THE RESTRICTIVE COVENANTS
FOR RIVERBROOKE SUBDIVISION**

ROBERT C. RHEIN INTERESTS, INC., North Carolina corporation (the "Declarant"), hereby declares that the property described on **Exhibit A** attached hereto and made a part hereof, is and shall hereafter be held, transferred, sold and conveyed subject to the **Restrictive Covenants For Riverbrooke Subdivision, Phase One**, recorded in **Book 7671, Page 94**, Wake County Registry (the "Covenants"), which Covenants shall be appurtenant to and run with the property, by whomsoever owned, with the following modification:

With regard to Phase Two, Paragraph 20 of the Covenants is amended to read as follows:

"20. EASEMENTS. Easements for the installation, maintenance and repair of sanitary sewer and storm water drainage facilities are reserved as shown on the recorded maps referred to in Exhibit A attached hereto. Within such easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of the utilities, or which may change the direction of or otherwise impede or retard the flow of water through the drainage channels within such easements. Any easement located on a Lot shall be maintained continuously by the Owner of such Lot, except for any such improvements for which a public authority or utility company is responsible. Declarant reserves the right to create and impose additional easements or rights-of-way over any unsold Lot by the recording of appropriate instruments in the Wake County Registry, and such instruments shall not be construed to invalidate any of these covenants.

Declarant reserves an easement in and right at any time in the future to grant a ten-foot (10') right-of-way over, under and along the rear line of each Lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary to or useful for furnishing electric power, gas, telephone service, cablevision or other utilities, including water, sanitary sewage service and storm drainage facilities. Declarant also reserves an easement in and right at any time in the future to grant a five-foot (5') right-of-way over, under and along the side lines of each Lot for the aforementioned purposes.

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Easements are also reserved for the benefit of the Declarant and the Riverbrooke Homeowners Association, Inc. (the Association"), and their respective successors and assigns, over, across and under those portions of the Lots shown and designated as a private storm water drainage easement on the maps referred to in Exhibit A for the purpose of installing, operating and maintaining storm water drainage facilities thereon. No building, structure, fill, embankment, fence, driveway, planting, swing or other obstruction shall be permitted in such area, other than those installed by the Declarant or the Association unless approved as provided in Paragraph 18 of these Covenants.

Easements are also reserved for the benefit of the Declarant and the Association, and their respective successors and assigns, over, across and under those portions Lots 8-20, inclusive, adjacent to and along Rock Quarry Road shown and designated as "30' Landscape & Sign Easement", on the recorded maps referred to in Exhibit A for the purpose of installing and maintaining a berm, signage, fences and landscaping within the easement area. No fence, structure, driveway, planting, swing or other object shall be permitted in such area, other than those installed by the Declarant or the Association, unless approved as provided in Paragraph 18 of these Covenants, provided, however, that:

(a) the Owner of said Lots may plant flowers, shrubs, trees, vegetables and other vegetation on the house side of any berm installed by Declarant or the Association, i.e., on the side of such berm away from Rock Quarry Road;

(b) no such planting shall in any way interfere with any grading, landscaping, planting or other improvement installed by the Declarant or the Association; and

(c) no planting, landscaping or other improvement installed or constructed in such easement by the Declarant or the Association shall be removed or disturbed in any way without the prior written consent of the Association.

The Declarant, the Association and their successors and assigns shall at all times have the right of access upon such easements for the purpose of landscaping, planting, mowing, maintaining, repairing or replacing the easement area and the improvements thereon or for removing any object placed in the easement area in violation of the provisions of this Paragraph 20."

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed in its corporate name by its duly authorized officers and its seal to be affixed hereto, all by authority of its Board of Directors, as of the date set forth in the notary acknowledgement below.

ROBERT C. RHEIN INTERESTS, INC.,
a North Carolina corporation

(Corporate Seal)

By: _____
Richard M. Westmoreland, Jr.
Vice President

ATTEST: _____
Assistant Secretary

STATE OF NORTH CAROLINA -- COUNTY OF WAKE

I, TERRI W. ROBINSON, a Notary Public for the County and State aforesaid, certify that RICHARD W. MOORE personally appeared before me this day and acknowledged and, being by me duly sworn, says and deposes that he is an Assistant Secretary of **ROBERT C. RHEIN INTERESTS, INC.**, a North Carolina corporation, and that, by authority duly given and as the act and deed of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by him as its Assistant Secretary.

WITNESS my hand and official seal, this the 14th day of January, 1999.

_____
Notary Public
My commission expires: _____

STATE OF NORTH CAROLINA -- COUNTY OF WAKE:

The foregoing certificate of TERRI W. ROBINSON, Notary Public, is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

LAURA M. RIDDICK, Register of Deeds

By: _____
Deputy/Asst. Register of Deeds

EXHIBIT A

RIVERBROOKE SUBDIVISION
Phase Two

Lying and being in the City of Raleigh, St. Mary's Township, Wake County, North Carolina, and being more particularly described as follows:

All of the real property, containing 15.29 acres, more or less, shown and identified on the map entitled "**Final Plat, RIVERBROOKE PHASE TWO, SHEET ONE**", recorded in **Book of Maps 1999, Page 74**, Wake County Registry, which includes **Lots 8-31** and **59-81**, inclusive, in **RIVERBROOKE Subdivision, Phase Two**, as shown on the aforesaid recorded map, and on the map entitled "**Final Plat, RIVERBROOKE PHASE TWO, SHEET TWO**", recorded in **Book of Maps 1999, Page 75**, Wake County Registry, which includes **Lots 147-152** and **160-168** and the Open Space, all as shown on the aforesaid recorded map, to which maps reference is hereby made for a more particular description.

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Drawn by & HOLD FOR:
PERRY, PATRICK, FARMER & MICHAUX, P.A. (rm)

REGISTRATION
97 SEP 25 AM 11:13
REGISTER OF DEEDS
WAKE COUNTY

STATE OF NORTH CAROLINA 000282 **RESTRICTIVE COVENANTS FOR RIVERBROOKE SUBDIVISION Phase One**

COUNTY OF WAKE

ROBERT C. RHEIN INTERESTS, INC., a North Carolina corporation (hereinafter "Declarant"), hereby declares that the real property described on **Exhibit A** attached hereto and made a part hereof (hereinafter the "Subdivision") is and shall hereafter be held, transferred, sold and conveyed subject to the following restrictive covenants, which shall be appurtenant to and run with the land, by whomsoever owned, to wit:

1. LAND USE AND BUILDING TYPE. All Lots shall be used for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling, not to exceed two and one-half (2 1/2) stories in height, a private garage for not more than three (3) cars, and other out-buildings incidental to residential use of the Lot. Nothing herein shall be deemed to prohibit conversion of a Lot to a street.

2. DWELLING SIZE. The minimum heated square footage of a dwelling may not be less than 1000 square feet for a one-story dwelling and 600 square feet on the first floor of a two-story or two and one-half story dwelling.

3. BUILDING SETBACKS; HOUSE LOCATION. No dwelling shall be erected or maintained on any Lot outside of the building envelope shown on the recorded plat of the Subdivision or as otherwise required or permitted by the zoning ordinance of the City of Raleigh (the "Zoning Ordinance"). For purposes of these building setback requirements, decks, porches, patios, stoops, eaves, overhangs, bay windows, chimneys, carports and other similar projections shall be deemed to be part of the dwelling only to the extent that the same are deemed to be part of the dwelling under the Zoning Ordinance as it exists as of the date of issuance of a certificate of occupancy for such dwelling. Any dwelling erected on a Lot other than a corner lot shall face the street on which the Lot abuts. On corner lots, a dwelling may be erected so as to face the intersection of the two streets on which the Lot abuts.

4. FENCES. No fence or wall shall be erected on any Lot closer to any street than the front or side building setback line. Chain-link or other metal fencing is not permitted, except that 2"x4" mesh may be used with split-rail fencing to contain animals

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within the yard. Any fence or wall installed within the Subdivision must meet all requirements of the Zoning Ordinance and must be approved as provided in Paragraph 18 of these Covenants. Nothing in this paragraph shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot or Lots nor to any fence installed by the Declarant at any entrance to or along any street within the Subdivision.

5. TEMPORARY STRUCTURES. No residence of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, basement, shack, tent, garage, barn, or any other building of a similar nature shall be used as a residence on any Lot, either temporarily or permanently.

6. PARKING; DRIVEWAYS AND PARKING PADS; ABANDONED VEHICLES. Vehicles may be parked or stored only on portions of a Lot improved for that purpose, i.e., garage, driveway, carport or parking pad. No unenclosed parking shall be constructed or maintained on any Lot except a paved driveway and an attached paved parking pad, which pad shall be designed for the parking of not more than two (2) vehicles. Any driveway or parking pad constructed upon any Lot shall have either an asphalt surface, a concrete surface, or brick pavers.

No mobile house trailer (whether on or off wheels), vehicle or enclosed body of the type which may be placed on or attached to a vehicle (known generally as "campers"), tractor trailer trucks or cabs, or commercial vehicle of any kind shall be parked on any street or any Lot within the Subdivision. No boat or boat trailer shall be parked on any street within the Subdivision. A boat and/or boat trailer may be parked or kept on a Lot if it is parked or kept in such a manner that the boat and/or trailer is/are screened from the street. Screening may be either by fence or plantings, but, in any case, the screening must comply with the Zoning Ordinance and be approved pursuant to Paragraph 18 of these Covenants.

No vehicle of any type which is abandoned or inoperative shall be stored or kept on any Lot in such manner as to be seen from any other Lot, any street within the Subdivision or the Common Area, and no automobiles or mechanical equipment may be dismantled or allowed to accumulate on any Lot.

7. ANIMALS. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling, except that dogs, cats, or other household pets may be kept or maintained, provided that they are not kept or maintained for commercial purposes.

8. NUISANCES; BUSINESS ACTIVITY. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or

nuisance to the neighborhood. No business trade or activity may be conducted on any Lot unless permitted by the Raleigh Board of Adjustments.

9. SIGNS. Except as otherwise required by the City of Raleigh, no sign of any kind shall be displayed to the public view on any Lot except signs used to advertise Lots for sale during the construction and sales period, one sign of not more than ten (10) square feet advertising the property for sale or rent, and signs of not more than ten (10) square feet expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a Lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election.

10. ANTENNAS; SATELLITE DISHES OR DISCS. No radio or television transmission or reception towers or antennas shall be erected on a Lot other than a customary television or radio reception antenna, which shall not extend more than ten (10) feet above the top roof ridge of the house. However, a satellite antenna receiver or disc will be permitted on a Lot if: (i) the receiver or disc is not larger than two feet (2') in diameter; (ii) the receiver or disc is located on the side of the house away from the street and within the building set back lines applicable to that Lot; and (iii) the receiver or disc is located or screened in such a way that it cannot be seen from any street within the subdivision. Any such screening must be approved as provided in Paragraph 18 of these Covenants. In no event shall any free-standing transmission or receiving tower be permitted on any Lot.

11. SWIMMING POOLS. No above-ground swimming pools shall be permitted in the Subdivision, except that small, inflatable wading pools shall be permitted.

12. MAILBOXES. No mailbox shall be placed or maintained on any Lot unless the same has been approved in accordance with the provisions of Paragraph 18 of these Covenants.

13. MAINTENANCE OF LOT; CONSTRUCTION. Each owner shall keep his Lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair. In the event that any residence or structure on any Lot is destroyed or partially destroyed by fire, Act of God, or as a result of any other act or thing, the owner of such Lot shall repair the damage and reconstruct the improvement within twelve (12) months after such damage or destruction; provided, however, that if the structure damaged is not part of or attached to the residence constructed on such Lot, the owner may, at his option, either completely remove the damaged structure and landscape area on which the structure stood or repair or reconstruct the structure.

All construction, landscaping or other work which has been commenced on any Lot shall be continued with reasonable diligence to completion and no partially completed house or other improvement shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. The owner of each Lot shall at all times keep contiguous public streets free from any dirt, mud, garbage, trash or other debris resulting from any such construction on his Lot.

14. CLOTHESLINES. No clothesline may be erected or maintained on any Lot.

15. GARBAGE; UNSIGHTLY STORAGE. All trash and rubbish shall be kept in garbage cans stored behind the house in such a manner as not to be visible from the street upon which the house fronts. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or similar unsightly items shall be allowed to remain on any Lot; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, and other debris for collection by governmental or other similar garbage and trash removal units. In the event of curbside trash and/or garbage pickup, trash and/or garbage cans may be moved to the street on the night before the scheduled pickup, but all garbage cans must be returned to approved enclosure the night of the scheduled pickup.

16. SEPTIC TANKS; WELLS. No septic tank shall be installed, used or maintained on any Lot. No well shall be installed, used or maintained on any Lot for human domestic water consumption, nor shall any well be connected in any manner whatsoever to the water mains, laterals and piping serving the dwelling, which mains furnish domestic water from sources beyond the boundaries of the Lot.

17. REMOVAL OF TREES. Except in the case of an emergency situation that does not permit any delay, no living tree larger than 6" in diameter at a point measured 3' off the ground shall be removed from any Lot without the approval of the Declarant. The foregoing provision shall apply only to Lots which have been occupied pursuant to a certificate of occupancy issued by the City of Raleigh.

18. ARCHITECTURAL CONTROL. No building, fence, wall or other structure shall be commenced, erected or maintained within the Subdivision, nor shall any exterior addition to or change or alteration therein be made, nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or relandscaping of any Lot be commenced or made (such construction, alteration and landscaping are hereinafter referred to as the "Improvements") until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Declarant. If the Declarant fails to approve or

disapprove such proposed Improvements within thirty (30) days after complete plans and specifications have been received by it, approval will not be required, and this Paragraph 18 shall be deemed to have been complied with. The Declarant shall have the right to charge a reasonable fee, not to exceed $75.00, for receiving and processing each application. The Declarant shall have the right to promulgate and from time to time amend written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may establish, define and expressly limit the standards and specifications which will be approved, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design and construction technique. The Declarant shall not approve any Improvements which it determines, in its discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Subdivision.

Declarant may, at any time, delegate the review and approval authority contained in this Paragraph 18 and the other rights and obligations contained in these Restrictive Covenants to the Board of Directors of the Riverbrooke Homeowners Association, Inc., or to an Architectural Committee composed of three or more persons appointed by the Board, or to one or more persons or firms selected by Declarant and who need not be owners of Lots within the Subdivision. Such delegation shall be made by the Declarant by recording in the Wake County Registry an Assignment Of Declarant's Rights. Declarant shall delegate such authority no later than the date upon which Declarant no longer owns any Lots within the Subdivision or December 31, 2004, whichever is earlier. Such authority may be further delegated by the person(s) or firm(s) so appointed, or their successors, by recording such additional Assignments as are necessary. Any use of the term "Declarant" in this Paragraph 18 shall be deemed to apply to Declarant and, when appropriate, to any person(s) or firm(s) to whom architectural review and approval authority has been delegated. Nothing herein shall be construed to permit interference with the development of the Lots by Declarant in accordance with its general plan of development.

19. EXTERIOR MAINTENANCE. The owner of each Lot shall maintain the grounds and improvements on his Lot, including, but not limited to, plantings, landscaping and lawns, at all times in a neat and attractive manner.

20. EASEMENTS. Easements for the installation, maintenance and repair of sanitary sewer and storm water drainage facilities are reserved as shown on the recorded plats. Within such easements, no structure, planting, or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of the utilities, or which may change

the direction of flow or otherwise impede or retard the flow of water through the drainage channels within such easements. Any easements located on a Lot shall be maintained continuously by the owner of such Lot, except for any such improvements for which a public authority or utility company is responsible. Declarant reserves the right to create and impose additional easements or rights-of-way over any unsold Lot or Lots by the recording of appropriate instruments in the Wake County Registry, and such instruments shall not be construed to invalidate any of these covenants.

Declarant reserves an easement in and right at any time in the future to grant a ten-foot (10') right-of-way over, under and along the rear line of each Lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary to or useful for furnishing electric power, gas, telephone service, cablevision or other utilities, including water, sanitary sewage service and storm drainage facilities. Declarant also reserves an easement in and right at any time in the future to grant a five-foot (5') right-of-way over, under and along the side lines of each Lot for the aforementioned purposes.

Easements are also reserved for the benefit of the Declarant and the Riverbrooke Homeowners Association, Inc. (hereinafter the Association"), and their respective successors and assigns, over, across and under those portions of the Lots shown and designated as reserved for private drainage easements, including, without limitation:

- those portions of Lots 85 and 86 shown and designated as "20' Private Drainage Easement", and

- those portions of Lots 40, 41, 107, 108, 140 and 141 shown and designated as "20' Priv. Drainage Esmt.", and

- those portions of Lots 35, 36, 53 and 54 shown and designated as "20' Priv. Drain. Esmt.", and

- those portions of Lots 2, 57, 83, 89, 91, 104, 105, 118, 124, 134 and 306 shown and designated as "20' PDE",

for the purpose of installing, operating and maintaining storm water drainage facilities thereon. No fence, structure, driveway, planting, swing or other object shall be permitted in such area, other than those installed by the Declarant or the Association unless approved as provided in Paragraph 18 of these Covenants.

Easements are also reserved for the benefit of the Declarant and the Riverbrooke Homeowners Association, Inc. (hereinafter the Association"), and their respective successors and assigns, over, across and under:

- those portions those portions of Lots 1, 3, 4, 5, 6, 7 and 307, inclusive, adjacent to and along Rock Quarry Road shown and designated as "30' L&SE", on the recorded plats referred to in Exhibit A attached hereto, and

- those portions of Lots 1, 2, 306, 307, inclusive, adjacent to and along Riverbrooke Drive shown and designated as "10' L&SE"on the recorded plats referred to in Exhibit A attached hereto, and

- those portions of the northwestern corner of Lot 1 and the northeastern corner of Lot 307 shown and designated as "L&SE" on the recorded plats referred to in Exhibit A attached hereto,

for the purpose of installing and maintaining a berm, signage, fences and landscaping within the easement are. No fence, structure, driveway, planting, swing or other object shall be permitted in such area, other than those installed by the Declarant or the Association, without the prior written approval of the Declarant, provided, however, that:

(a) the owners of said Lots, without the consent of the Declarant, may plant flowers, shrubs, trees, vegetables and other vegetation on the house side of any berm installed by Declarant, i.e., on the side of such berm away from Rock Quarry Road;

(b) no such planting shall in any way interfere with any grading, landscaping, planting or other improvement installed by the Declarant or the Association; and

(c) no planting, landscaping or other improvement installed or constructed in such easement by the Declarant or the Association shall be removed or disturbed in any way without the prior written consent of the Association.

The Declarant, the Association and their successors and assigns shall at all times have the right of access upon such easements for the purpose of landscaping, planting, mowing, maintaining, repairing or replacing the easement area and the improvements thereon or for removing any object placed in the easement area in violation of the provisions of this Paragraph 20.

21. SUBDIVISION OF LOTS. No Lot shall be subdivided by sale or otherwise so as to reduce the total Lot area shown on the recorded map or plat, except by and with the written consent of the Declarant.

22. UNINTENTIONAL VIOLATIONS. Declarant, or the persons or firms to whom the architectural review and approval authority has been delegated pursuant to Paragraph 18 of these Covenants, may, but shall not be obligated to, waive any violation of the

designated and approved building setback lines on any Lot, provided that, no waiver may be granted for a violation in excess of 25% of the applicable requirements. No such waiver shall be effective unless the Lot and all structures thereon are in full compliance with the applicable provisions of the Zoning Ordinance or a variance has been obtained for such violation. Waivers shall be effective upon recording of same in the Wake County Registry.

23. STREET LIGHTING. Declarant reserves the right to subject the Subdivision to a contract with Carolina Power & Light Company ("CP&L") for installation of street lighting, which requires a continuing monthly payment to CP&L by each residential customer.

24. ENFORCEMENT. Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant herein and enforcement shall be to either restrain violation and/or to recover damages resulting therefrom.

25. SEVERABILITY. Invalidation of any one or more of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

26. TERM. These covenants shall run and bind the land and all owners thereof for a period of 25 years from the date they are recorded, after which time, they shall be automatically extended for successive periods of ten (10) years unless altered or amended as set forth below. These covenants may be amended during the first twenty-five year period by an instrument signed by the then-owners of not less than ninety percent (90%) of the Lots, and thereafter an instrument signed by then-owners of not less than seventy-five percent (75%) of the Lots.

27. RIVERBROOKE HOMEOWNERS ASSOCIATION, INC. The owners of Lots within the Subdivision are Members of the Riverbrooke Homeowners Association, Inc., and are subject to and bound by the Declaration Of Covenants, Conditions And Restrictions For The Riverbrooke Homeowners Association, Inc., to be recorded in the Wake County Registry, which Declaration provides additional restrictions on such Lots.

28. DECLARANT. Nothing contained in these Covenants shall be construed to permit interference with the development of the Lots by Declarant so long as said development follows the general plan of development previously approved by the City of Raleigh. The restrictions contained herein shall not be deemed to apply to any sales office, construction trailer, model home, or other temporary improvement installed by or with the approval of Declarant.

IN WITNESS WHEREOF, Declarant caused this instrument to be executed as of the 25th day of September, 1997.

ROBERT C. RHEIN INTERESTS, INC.,
a North Carolina corporation

(Corporate Seal)

By: _____
Richard M. Westmoreland, Jr.
Vice President

ATTEST: _____
Assistant Secretary

STATE OF NORTH CAROLINA - COUNTY OF WAKE:

I, TAMELA B. GILMORE, a Notary Public for said County and State, certify that RICHARD M. WESTMORELAND, JR., personally appeared before me this day and, being by me duly sworn, says and deposes that he is a Vice President of **ROBERT C. RHEIN INTERESTS, INC.**, a North Carolina corporation, that the seal affixed to the foregoing instrument in writing is the corporate seal of the said corporation, that the said writing was signed and sealed by him and attested by Richard W. Moore as its Assistant Secretary in behalf of and as the act and deed of the corporation by authority duly given.

Witness my hand and official stamp and seal, this the 25th day of September, 1997.

TAMELA B. GILMORE
NOTARY PUBLIC
WAKE COUNTY, N.C.
My Commission Expires February 17 2002

_____
Notary Public
My commission expires: 02/17/2002

STATE OF NORTH CAROLINA -- WAKE COUNTY;

The foregoing certificate of TAMELA B. GILMORE, Notary Public, is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

LAURA M. RIDDICK
Register of Deeds

By: _____
~~Asst.~~/Deputy Register of Deeds

EXHIBIT A

RIVERBROOKE SUBDIVISION
Phase One

Lying and being in St. Mary's Township, Wake County, North Carolina, and being more particularly described as follows:

Tract 1: Section A

BEING all of the real property, containing 5.61 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION A" , prepared by Priest, Craven & Associates, Inc. (Drawing No. 9754), and recorded in **Book of Maps 1997, Page 1569**, Wake County Registry, which property includes Lots 1-7, 82-91, 171 and 306-307 in RIVERBROOKE Subdivision, Phase One, Section A, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 2: Section B

BEING all of the real property, containing 4.14 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION B", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9755), and recorded in **Book of Maps 1997, Page 1570**, Wake County Registry, which property includes Lots 92-97, 119-124, 145-146 and 169-170 in RIVERBROOKE Subdivision, Phase One, Section B, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 3: Section C

BEING all of the real property, containing 5.04 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION C", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9756), and recorded in **Book of Maps 1997, Page 1571**, Wake County Registry, which property includes Lots 98-102 and 104-118 in RIVERBROOKE Subdivision, Phase One, Section C, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 4: Section D

BEING all of the real property, containing 5.74 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION D", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9757), and recorded in **Book of Maps 1997, Page 1572**, Wake County Registry, which

property includes Lots 32-47, 49-58 and 103 in RIVERBROOKE Subdivision, Phase One, Section D, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 5: Section E

BEING all of the real property, containing 4.92 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION E", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9756), and recorded in **Book of Maps 1997, Page 1573**, Wake County Registry, which property includes Lots 48 and 125-144 in RIVERBROOKE Subdivision, Phase One, Section E, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

BK7671PG0069

PRESENTED FOR REGISTRATION
97 SEP 23 AM 11:13
LAURA M. RIDDICK
REGISTER OF DEEDS
WAKE COUNTY

Drawn by and HOLD FOR:
PERRY, PATRICK, FARMER & MICHAUX, PA (rm)

000281

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE RIVERBROOKE HOMEOWNERS ASSOCIATION, INC.

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DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE
RIVERBROOKE HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION is made on the date hereinafter set forth by **ROBERT C. RHEIN INTERESTS, INC.**, a North Carolina corporation (hereinafter referred to as "Declarant"):

W I T N E S S E T H:

WHEREAS, Declarant is the owner of a 101.72 acre tract of land located in St. Mary's Township, Wake County, North Carolina, more fully described in the deed recorded in Book 7436, Page 530, Wake County Registry;

WHEREAS, Declarant desires to create on such property an exclusive residential community of single-family homes to be known as RIVERBROOKE Subdivision (hereinafter sometimes referred to as "Riverbrooke" or the "Subdivision");

WHEREAS, Declarant desires to provide for the maintenance and upkeep of the Common Area and to provide a vehicle for ensuring that the storm water drainage systems and facilities for the Subdivision are properly maintained, and, to that end, desires to subject all of the property within the Subdivision to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Common Area, to administer and enforce covenants and restrictions applicable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and Declarant has therefore incorporated under North Carolina law as a non-profit corporation, the RIVERBROOKE HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, Declarant declares that the real property described in Section 1 of Article II of this Declaration and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to the **RIVERBROOKE HOMEOWNERS ASSOCIATION, INC.**, a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to the real property, together with any improvements thereon, owned by the Association, whether in fee, by easement or otherwise, for the common use and enjoyment by the Owners of Lots within the Subdivision, including, but not limited to, open space and any sewer, water or storm water drainage line not within a public easement or public street right-of-way and serving more than one Lot. The Common Area shall be maintained by the Association or its successors in interest unless dedicated to public use as set forth herein.

Section 3. "Declarant" shall mean and refer to **ROBERT C. RHEIN INTERESTS, INC.**, a North Carolina corporation. It shall also mean and refer to any person, company or entity to whom or which Declarant shall assign or delegate the rights and obligations of Declarant by an assignment of Declarant's rights recorded in the Wake County Registry.

Section 4. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown on any recorded subdivision map of the Properties, with the exception of any Common Area owned in fee by the Association and any public street rights-of-way shown on such recorded map. In the event that any Lot is increased or decreased in size by recombination or resubdivision through recordation of new subdivision plats, any newly-platted lot shall thereafter constitute a Lot.

Section 5. "Member" shall mean and refer to every person or entity who or which holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having an interest in a Lot solely as security for the performance of an obligation.

Section 7. "Properties" shall mean and refer to the "Existing Property" described in Exhibit A to this Declaration and any additional property annexed pursuant to Article II of this Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE RIVERBROOKE HOMEOWNERS ASSOCIATION, INC.

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, and which is within the jurisdiction of the Association, is described on Exhibit A attached hereto.

Section 2. Additions to Existing Property. At any time prior to December 31, 2004, additional lands within the property described in Exhibit B to this Declaration may be annexed by the Declarant without the consent of the Members and therefore become subject to this Declaration by the recording by Declarant of a plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed, provided, however, that such property must be contiguous to property already subject to this Declaration and must be approved by the City of Raleigh and, if appropriate, by the Federal Housing Administration and/or Veterans Administration. Any or all of the Exhibit B property may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members of the Association. All Common Areas located within any property annexed shall be conveyed to the Association in the same manner as set forth in Section 3 of Article IV of this Declaration.

Section 3. Density. The current zoning classification of Riverbrooke is R-4, which means that the maximum number of units per acre within the Subdivision without rezoning the property to another zoning classification is four (4) lots per acre, or a total of 406 lots. However, the Subdivision was approved as a cluster open space development, which permits density transfer within the Properties and may result in lots within the Subdivision containing less than 1/4 acre (10,890 square feet).

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots and may not be separated from ownership of any Lot.

There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Ownership of a Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine; but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant or by a builder who purchased such Lots from Declarant for the purpose of constructing and selling a residence thereon and which have not been converted to Class A Lots as provided in subparagraphs (1) or (2) below. Declarant shall be entitled to three (3) votes for each Class B Lot.

The Class B Lots shall cease to exist and shall be converted to Class A Lots upon the earlier of the following to occur:

(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; provided, however, that all Lots owned by Declarant shall revert to Class B Lots and thereby be reinstated with all rights, privileges and responsibilities of such Class if, after the conversion of Class B Lots to Class A Lots, additional Lots within the Properties are formed by the recording in the Wake County Registry of a new map of Lots as set forth in Article II hereof, thus making Declarant the Owner, by virtue of the newly-recorded Lots and of other Lots owned by Declarant, of a sufficient number of Class B Lots to cast a majority of votes (it being hereby stipulated that the conversion and reconversion shall occur automatically as often as the foregoing facts shall occur); or

(2) on December 31, 2004.

When the Class B Lots cease to exist and are converted to Class A Lots, Declarant shall have the same voting rights as other Owners of Class A Lots; however, such Lots shall continue to be treated as Class B Lots for assessment purposes.

Section 3. Vacant/Leased Residences. If the Owner of any Lot ceases to occupy the dwelling constructed thereon as his/her own personal living quarters or if any dwelling within the Properties

is leased or rented to tenants, the vote as expressed by the Owners of such vacant and rental units shall not be entitled to any weight greater than forty-nine (49) percent on any matter pending before the Association.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by the provisions of this Section 1 and by the rules and regulations adopted by the Members and/or the Board of Directors of the Association, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Common Area, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to:

(a) subject to the provisions of the Raleigh City Code, the right of the Association to charge reasonable admission and other fees for the use of any facilities hereafter situated or constructed on the Common Area and to limit the use of such facilities to Owners who occupy a residence on the Properties and to their families, tenants and guests, as provided in Section 2 of this Article IV.

(b) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least three-fourths (3/4) of the votes appurtenant to each Class of Lots agree to such dedication, sale or transfer and signify their agreement by a signed and recorded document, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewage, utility and drainage facilities upon, over, under and across the Common Area without the assent of the Members when such easements, in the opinion of said Board, are necessary for the convenient use and enjoyment of the Properties. Notwithstanding anything herein to the contrary, the Common Area shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the City of Raleigh or to another non-profit corporation for the aforementioned purposes.

(d) the right of the Association, with the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each Class of Lots, to mortgage, pledge, deed in trust or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Owners and the Association as set forth herein.

(e) the right of the Association, as provided by and consistent with the provisions of Section 10-3073(a)(2) of the Raleigh City Code as same may be amended from time to time, exchange all or part of the Common Area for other property and consideration of like value and utility, which exchange may be approved by the Board of Directors without the consent of the Members.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Wake County, North Carolina.

(b) Tenants. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Wake County, North Carolina.

(c) Guests. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

(d) All delegates shall be subject to suspension as set forth in Section 1(a) of this Article IV.

Section 3. Conveyance of Title To The Association. Declarant covenants, for itself, its successors and assigns, that it will convey title to the Common Area within each phase or section of the Subdivision to the Association prior to the conveyance of the first Lot within such phase or section to an Owner. Declarant reserves an easement over and across the Common Area so long as it owns any Lots within the Properties for the purpose of constructing any improvements on the Common Area as it deems necessary or advisable, provided that any such improvements must comply with the requirements of the Raleigh City Code. Except as otherwise stated herein, all conveyances by Declarant to the Association shall be

free and clear of all encumbrances and liens, except utility and drainage easements of record or shown on the recorded plats of the Subdivision. Any improvements placed on the Common Area by Declarant shall become the property of the Association upon completion of such improvements.

Section 4. Regulation and Maintenance of Common Area Easements. It is the intent of the Declarant that the Common Area be preserved to the perpetual benefit of the Owners within the Subdivision. To that end, Declarant will, in some instances, reserve on a recorded plat or grant to the Association an easement over and across that portion of any Lot on which a Common Area easement lies. It is the intent of the Declarant that the easement area shall be maintained by the Association in substantially the same or better condition as when the Lot upon which such easement lies was conveyed to the Owner.

Rights and Responsibilities of the Lot Owners as to Common Area Easements. Each Owner of a Lot upon which a Common Area easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such Common Area easement. Notwithstanding any other provision of this Declaration, no Owner or other person shall, without the prior written consent of the Association: (1) remove any trees or vegetation within a Common Area easement; (2) erect gates, fences, or other structures on a Common Area easement; (3) place any garbage receptacles on or in a Common Area easement; (4) fill or excavate a Common Area easement or any part thereof; or (5) plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of a Common Area easement.

Section 5. Rights and Responsibilities of the Association as to Common Area. The Association shall have the right and obligation to ensure that the Common Area is preserved to the perpetual benefit of the Owners within the Subdivision, to that end, shall: (i) maintain the Common Area in its natural or improved state, as appropriate, and keep it free of impediments to its free use by the Owners within the Subdivision; (ii) procure and maintain adequate liability insurance, in an amount not less than $1,000,000.00, covering the Association and its Members against any loss or damage suffered by any person, including the Owner of the Lot upon which Common Area lies, resulting from use of the Common Area; and (iii) pay all property taxes and other assessments levied against all Common Area owned in fee by the Association.

The Association and its employees, agents, contractors and subcontractors, shall have a non-exclusive right and easement at all times to enter upon any portion of a Lot reserved or designated as a Common Area easement for the purposes of: (i) installing and maintaining entrance signage and other signage, any and all of which shall have been approved by the City of Raleigh prior to

installation; and (ii) making such improvements to the Common Area easement as have been approved by the Association and, if required, by the City of Raleigh; and (iii) maintaining the Common Area easement in its natural or improved state.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot that it owns within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments and special assessments, such assessments to be established and collected as hereinafter provided. All assessments which are unpaid when due, together interest and late charges set forth in Section 8 of this Article V and all costs of collection, including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment or charge, together with interest and costs of collection, including reasonable attorney's fees, shall also be the personal or corporate obligation of the person(s), firm(s) or corporation(s) owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them. Although unpaid assessments and charges are not the personal obligation of such Owner's successors in title unless expressly assumed by them, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

It is the intent of the Declarant that any monetary fines imposed against an Owner pursuant to Section III of Article VII of the By-Laws Of The Riverbrooke Homeowners Association, Inc., shall constitute a lien against the Lot of such Owner to the same extent as if such fine were an assessment against such Lot.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and, in particular, for: (i) acquisition, improvement, and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area; (ii) repair and reconstruction of improvements on the Common Area, including storm water infiltration devices and other storm water drainage facilities constructed on or serving the Properties, including but not limited to, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) payment of taxes and public assessments

levied against the Common Area owned by the Association in fee; (iv) procurement and maintenance of insurance in accordance with the Section 5 of Article IV and Section 8 of Article IX of this Declaration; (v) employment of attorneys, accountants and other persons or firms to represent the Association when necessary; (vi) payment of principal and interest on funds borrowed for Association purposes; and (vii) such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1, 1998, the maximum annual assessment shall be $20.00 per Class A Lot ($10.00 per month) and, subject to the provisions of Sections 3(c) and 3(d), below, $30.00 per Class B Lot ($2.50 per month).

(a) From and after January 1, 1998, the Maximum Annual Assessment may be increased by the Board of Directors effective January 1 of each year without a vote of the membership, but subject to the limitation that the percentage of any such increase shall not exceed 10% of the maximum assessment for the previous year unless such increase is approved as set forth in Section 3(b), below.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Annual Assessment may be increased without limitation if such increase is approved by the Class B Member and not less than two-thirds (2/3) of the votes cast by the Class A Members, in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at any amount not in excess of the maximum (including zero); provided, however, that, except as otherwise provided in this subparagraph (c), the assessment established for each Class B Lot shall always be one-fourth (1/4) of the assessment for a Class A Lot.

In the event that Class B Lots are converted to Class A Lots, or Class A Lots are reconverted to a Class B Lots, the assessment with respect to such Lots shall be prorated and charged according to their class as of the date of each conversion and reconversion.

A Lot containing a dwelling used as a model or sales center and not as a residence shall be assessed at the Class B rate. A Class B Lot that is occupied as a residence shall be assessed at the Class A rate, but shall remain a Class B Lot for all other purposes.

(d) Any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by the Board.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other purpose, provided that any such assessment shall have the same assent of the Members as provided in Section 3(b) of this Article and shall be in the ratios provided in Section 3(c) of this Article.

Section 5. Assessment Rate; Collection Period. The annual and special assessment shall be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, quarterly or monthly basis, as determined by the Board of Directors.

Section 6. Notice of Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days prior to the meeting. At such meeting, the presence of members or of proxies entitled to cast sixty-seven (67%) percent of the votes appurtenant to each Class of Lots shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice or requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Amount of Initial and Subsequent Annual Assessments; Certificate of Payment. Unless a different commencement date is set by the Board of Directors, the annual assessments provided for herein shall commence as to all Lots in any phase on the first day of the month following the conveyance to the Association of all or any part of the Common Area within that phase. Unless a lower amount is set by the Board of Directors, the first annual assessment shall be the "maximum annual assessment" set forth in Section 3 of this Article and shall be prorated 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. At least fifteen (15) days before January 1 of each year, the Board of Directors shall send written notice of such assessment to every Owner subject thereto. 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 such reasonable charge as the Board of Directors may determine, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 8. Effect of Nonpayment of Assessments; Remedies. Any assessment not paid within ten (10) days after the due date shall incur such late charge as the Board of Directors may from time to time establish, and, if not paid within thirty (30) days after the due date, shall also bear interest from the due date at the rate of fourteen percent (14%) per annum or the highest rate allowed by law, whichever is less. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot for which such assessment is due. Interest, late payment charges, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of a Lot pursuant to such a foreclosure of a mortgage or deed of trust, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to the date of such conveyance. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 10. Exempt Property. All property dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. Notwithstanding the foregoing, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Working Capital Fund. At the time of closing of the initial sale of each dwelling constructed on each Lot, a sum equal to one-sixth (1/6) of the annual assessment for Class A Lots in effect at the time of such sale shall be collected from the purchaser of such dwelling and transferred to the Association as part of its working capital. The purpose of the working capital fund is to ensure that the Association will have adequate cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed by the Board of Directors to be

necessary or desirable. Amounts paid to pursuant to this Section shall not be considered as an advance payment of any regular assessment.

ARTICLE VI

RIGHTS OF LENDERS

Section 1. Books and Records. Any owner or holder of a first deed of trust on any Lot, or its agent(s), shall have the right, during normal business hours, to examine copies of this Declaration, the Articles of Incorporation, By-laws, and the books and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year.

Section 2. Notice to Lenders. Upon written request to the Association, the owner or holder of a first deed of trust on any Lot shall be entitled to timely written notice of:

(a) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of the Lot securing its loan.

(b) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(c) Any proposed action that requires the consent of a specified percentage of owners or holders of first mortgages on the Lots.

Section 3. Approval of Owners and Holders of First Deeds of Trust. Unless at least seventy-five percent (75%) of the owners and holders of the first deeds of trust on Lots located within the Properties have given their prior written approval, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause. Notwithstanding anything herein to the contrary, the property owned by the Association, whether in fee, by easement, or otherwise, shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the City of Raleigh or to another non-profit corporation for the aforementioned purposes. Nothing herein shall be deemed to prohibit the Association, with the consent of the City of Raleigh, to exchange Common Area for other real property as provided in the

Raleigh City Code, or to require the approval of such exchange by the holders of first deeds of trust on the Lots.

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;

(c) Fail to maintain hazard insurance on insurable improvements on the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value; or

(d) Use the proceeds of any hazard insurance policy covering losses to any part of the Common Area for other than the repair, replacement, or reconstruction of the damaged improvements.

Section 4. Payment of Taxes and Insurance Premiums. The owners or holders of first deeds of trust on Lots, jointly or singly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned by the Association. The persons, firms or corporations making such payments shall be owed immediate reimbursement therefor by the Association.

ARTICLE VII

EASEMENTS

Section 1. Access and Utility Easements. Easements for the installation and maintenance of driveways, walkways, water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, and for other public utility installations are reserved as shown on the recorded plats of the Properties. The Association may reserve or grant easements over the Common Area as provided in Article IV, Section 1(c), of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of twenty-five (25) years from the date hereof, Declarant reserves an easement and right of ingress, egress and regress on, over and under the Properties to maintain and correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action that it deems

reasonably necessary or appropriate. After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. Declarant shall give reasonable notice of its intent to take such action to all affected Owners.

Section 2. Easements for Governmental Access. An easement is hereby established over the Common Area and every Lot within the Properties for the benefit of applicable governmental agencies for: installing, removing, and reading water meters; maintaining and replacing water and sewer facilities; and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

Section 3. Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of such dwelling. Such work shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as nearly the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

ARTICLE VIII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or relandscaping of any Lot be commenced or made (such construction, alteration and landscaping are hereinafter referred to as the "Improvements") until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Declarant. If the Declarant fails to approve or disapprove such proposed Improvements within thirty (30) days after complete plans and specifications have been received by it, approval will not be required, and this Article shall be deemed to have been complied with. The Declarant shall have the right to charge a reasonable fee, not to exceed $75.00, for receiving and processing each application. The Declarant shall have the right to promulgate and from time to time amend written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may establish, define and expressly limit the standards and

specifications which will be approved, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design and construction technique. The Declarant shall not approve any Improvements which it determines, in its discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Subdivision.

Declarant may, at any time, delegate the review and approval authority contained in this Article VIII to the Board of Directors of the Association or to an Architectural Committee composed of three or more persons appointed by the Board. Such delegation shall be made by the Declarant by recording in the Wake County Registry an Assignment Of Declarant's Rights. Declarant shall delegate such authority no later of the date upon which Declarant no longer owns any Lots within the Properties or December 31, 2004, whichever is earlier. Any use of the term "Declarant" in this Article VIII shall be deemed to apply to Declarant and, when appropriate, to the Board of Directors or the Architectural Committee. Nothing herein shall be construed to permit interference with the development of the Lots by Declarant in accordance with its general plan of development.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of the Owners as set forth below. This Declaration may be amended during the first twenty-five year period by an instrument signed by the Owners of not less than eighty percent (80%) of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. No amendment shall be effective unless

it has been approved by the Raleigh City Attorney or his deputy, and, if required by Section 4 of this Article IX, by the Federal Housing Administration or Veterans Administration, and is recorded in the office of the Register of Deeds of Wake County.

Section 4. FHA/VA Approval. In the event that Declarant has arranged for and provided purchasers of Lots with FHA-insured or VA-guaranteed mortgage loans, then, as long as any Class B Lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mortgaging of real property owned by the Association, deeding of such real property to persons other than the Association, and amendment of this Declaration.

Section 5. Non-Liability of the City. The City of Raleigh shall not be responsible for failing to provide any emergency or regular fire, police or other public service to the Properties, any Lot, or any Owner or occupant when such failure is due to the lack of access to the Properties or any Lot thereof due to inadequate design or construction of such access, blocking of access routes, or any other factor within the control of the Declarant, the Association, an Owner, or an occupant of any Lot.

Section 6. Subdivision of Lots. Riverbrooke has been approved by the City of Raleigh as a cluster unit development, as that term is defined in the City's Zoning Ordinance. Therefore, although a Lot within the Subdivision may appear to contain enough land area to permit construction of additional dwelling units, prior approved density transfers may, in fact, preclude City approval of additional dwellings. No Lot within the Subdivision may be subdivided by sale or otherwise so as to reduce the total lot area shown on the recorded plats of the Subdivision, except by and with the consent of the Declarant and, if required, by the City of Raleigh.

Section 7. Declarant's Right To Change Development. With the approval of the City of Raleigh, and subject to such terms and conditions as the City or Raleigh may impose, Declarant shall have the right, without consent or approval of the Owners, to create dwelling units, add Common Area, change unit types and reallocate units within, and withdraw real property from the cluster development.

Section 8. Insurance. The Association shall procure and maintain adequate liability insurance covering the Association, in an amount not less than $1,000,000.00. The Association shall also procure and maintain adequate hazard insurance on real and personal property owned by the Association and shall procure and maintain officers' and directors' liability insurance. The premiums for such insurance shall be a common expense paid from the annual assessments provided in Article V of this Declaration.

Section 9. Enforcement. In addition to any other rights and remedies that the Association may have under this Declaration, the Association may impose sanctions for violations of this Declaration, the By-Laws of the Association, the rules and regulations adopted Association, or the Restrictive Covenants applicable to the Properties, in accordance with procedures set forth in the By-Laws, which sanctions may include, but are not limited to, reasonable monetary fines (which fines shall constitute a lien upon the Lot of the violator) and suspension of the right to vote and the right to use any facilities within the Common Area during the pendency of the violation.

In addition, as provided in the By-Laws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) and may suspend any services it provides to the Lot of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. The Association shall at all times have the right and easement to go upon any Lot for the purposes of exercising its rights hereunder, including, but not limited to, enforcement of the architectural guidelines applicable to the Properties. All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce its rights and remedies, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

Section 10. Greenway -- City of Raleigh Approval. Notwithstanding any other provision of this Declaration, neither the Association nor any Owner, Member or family member, tenant, guest, invitee of any Owner or Member, shall, within any portion of the Common Area which contains a greenway area dedicated to the City of Raleigh, without the prior written consent of the City of Raleigh:

a) grant any easement of any nature whatsoever;

b) remove any trees or vegetation;

c) erect gates, fences or other structures;

d) place any garbage receptacles;

e) fill or excavate; or

f) plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of said greenway in its natural state, including, without limitation, recreational pursuits such as walking, bicycling and other similar activities by the general public.

It is understood and agreed that within any greenway area, the City of Raleigh may erect trails and trailers markers, place litter receptacles and other convenience facilities and adopt and amend regulations concerning the use of the greenway (including, without limitation, hours of operation), which shall be equally applicable to the general public and the Owners. The Association may adopt such other regulations governing the use of the greenway, not inconsistent with those adopted by the City of Raleigh, and may enter into such agreements with the City of Raleigh as is deemed appropriate to ensure the maintenance and upkeep of the greenway in its natural or improved state, free of litter and unsightly debris.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed on this the 25th day of September, 1997.

DECLARANT:

ROBERT C. RHEIN INTERESTS, INC.

(Corporate Seal)

By: Richard M. Westmoreland, Jr.
Richard M. Westmoreland, Jr.
Vice President

ATTEST:
Richard W. Moore
Assistant Secretary

STATE OF NORTH CAROLINA - WAKE COUNTY

I, Tamela B. Gilmore, a Notary Public for Wake County, North Carolina, certify that RICHARD M. WESTMORELAND, JR., personally appeared before me this day and, being by me duly sworn, says and deposes that he is a Vice President of ROBERT C. RHEIN INTERESTS, INC., a North Carolina corporation, that the seal affixed to the foregoing instrument in writing is the corporate seal of the said corporation, that the said writing was signed and sealed by him and attested by Richard W. Moore, Assistant Secretary, in behalf of said corporation by its authority duly given. And the said Vice President acknowledged the said writing to be the act and deed of said corporation and said partnership.

Witness my hand and official stamp and seal, this the 25th day of September, 1997.

Tamela B. Gilmore
Notary Public
My commission expires: 02/17/2002

TAMELA B. GILMORE
NOTARY PUBLIC
WAKE COUNTY, N.C.
My Commission Expires February 17 2002

STATE OF NORTH CAROLINA -- COUNTY OF WAKE:

The foregoing certificate of TAMELA B. GILMORE, Notary Public, is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

LAURA M. RIDDICK, Register of Deeds

By: Robert A. Sellers
Deputy/~~Asst.~~ Register of Deeds

EXHIBIT A

RIVERBROOKE SUBDIVISION
Phase One

Lying and being in St. Mary's Township, Wake County, North Carolina, and being more particularly described as follows:

Tract 1: Section A

BEING all of the real property, containing 5.61 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION A" , prepared by Priest, Craven & Associates, Inc. (Drawing No. 9754), and recorded in **Book of Maps 1997, Page 1569**, Wake County Registry, which property includes Lots 1-7, 82-91, 171 and 306-307 in RIVERBROOKE Subdivision, Phase One, Section A, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 2: Section B

BEING all of the real property, containing 4.14 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION B", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9755), and recorded in **Book of Maps 1997, Page 1570**, Wake County Registry, which property includes Lots 92-97, 119-124, 145-146 and 169-170 in RIVERBROOKE Subdivision, Phase One, Section B, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 3: Section C

BEING all of the real property, containing 5.04 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION C", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9756), and recorded in **Book of Maps 1997, Page 1571**, Wake County Registry, which property includes Lots 98-102 and 104-118 in RIVERBROOKE Subdivision, Phase One, Section C, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 4: Section D

BEING all of the real property, containing 5.74 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION D", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9757), and recorded in

Book of Maps 1997, Page 1572, Wake County Registry, which property includes Lots 32-47, 49-58 and 103 in RIVERBROOKE Subdivision, Phase One, Section D, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 5: Section E

BEING all of the real property, containing 4.92 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION E", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9758), and recorded in **Book of Maps 1997, Page 1573**, Wake County Registry, which property includes Lots 48 and 125-144 in RIVERBROOKE Subdivision, Phase One, Section E, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 6: Open Space

BEING all of the real property, containing 21.51 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, OPEN SPACE DEDICATION AND CITY OF RALEIGH GREENWAY DEDICATION", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9753), and recorded in **Book of Maps 1997, Page 1562**, Wake County Registry, to which plat reference is hereby made for a more particular description of same.

EXHIBIT B

Lying and being in St. Mary's Township, Wake County, North Carolina, and being more particularly described as follows:

BEING all of the real property, containing 101.72 acres, more or less, described in the deed recorded in Book 7436, Page 530, Wake County Registry.

SAVE AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

Tract 1: Section A

BEING all of the real property, containing 5.61 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION A" , prepared by Priest, Craven & Associates, Inc. (Drawing No. 9754), and recorded in **Book of Maps 1997, Page 1569**, Wake County Registry, which property includes Lots 1-7, 82-91, 171 and 306-307 in RIVERBROOKE Subdivision, Phase One, Section A, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 2: Section B

BEING all of the real property, containing 4.14 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION B", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9755), and recorded in **Book of Maps 1997, Page 1570**, Wake County Registry, which property includes Lots 92-97, 119-124, 145-146 and 169-170 in RIVERBROOKE Subdivision, Phase One, Section B, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 3: Section C

BEING all of the real property, containing 5.04 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION C", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9756), and recorded in **Book of Maps 1997, Page 1571**, Wake County Registry, which property includes Lots 98-102 and 104-118 in RIVERBROOKE Subdivision, Phase One, Section C, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 4: Section D

BEING all of the real property, containing 5.74 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION D", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9757), and recorded in **Book of Maps 1997, Page 1572**, Wake County Registry, which property includes Lots 32-47, 49-58 and 103 in RIVERBROOKE Subdivision, Phase One, Section D, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 5: Section E

BEING all of the real property, containing 4.92 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, PHASE ONE, SECTION E", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9758), and recorded in **Book of Maps 1997, Page 1573**, Wake County Registry, which property includes Lots 48 and 125-144 in RIVERBROOKE Subdivision, Phase One, Section E, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

Tract 6: Open Space

BEING all of the real property, containing 21.51 acres, more or less, shown and identified on the plat entitled "Subdivision Plat, RIVERBROOKE, OPEN SPACE DEDICATION AND CITY OF RALEIGH GREENWAY DEDICATION", prepared by Priest, Craven & Associates, Inc. (Drawing No. 9753), and recorded in **Book of Maps 1997, Page 1562**, Wake County Registry, to which plat reference is hereby made for a more particular description of same.