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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE
AUTUMN RIDGE COMMUNITY ASSOCIATION, INC.**

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**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE
AUTUMN RIDGE COMMUNITY 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"):

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 68.586 acres of land located in the City of Durham, Lebanon Township, Durham County, North Carolina, more fully described in the deed recorded in Book 2619, Page 787, Durham County Registry;

WHEREAS, Declarant desires to develop within such property a subdivision, to be known as AUTUMN RIDGE (herein sometimes referred to as "Autumn Ridge" or the "Community"), containing single-family dwellings, and such other uses as may be consistent with the zoning of property;

WHEREAS, Declarant desires to provide for the maintenance and upkeep of certain Common Area within the Community, to provide for enforcement of covenants and restrictions applicable to the Community and to provide a vehicle for ensuring that storm water drainage systems and facilities within the Community are properly maintained, and, to that end, desires to subject the property within the Community 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 Community, and to collect and disburse the assessments and charges hereinafter created, and Declarant has therefore incorporated under North Carolina law as a nonprofit corporation, the AUTUMN RIDGE COMMUNITY ASSOCIATION, INC., for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, Declarant hereby declares that the real property described in **EXHIBIT A** attached hereto and made a part hereof and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, used 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. "Act" shall mean and refer to Chapter 47F of the North Carolina General Statutes, known as the North Carolina Planned Community Act.

Section 2. "Association" shall mean and refer to the **AUTUMN RIDGE COMMUNITY ASSOCIATION, INC.**, a North Carolina nonprofit corporation, its successors and assigns.

Section 3. "Common Area" shall mean and refer to the real property, together with any improvements thereon, owned by the Association, whether in fee or by easement, for the common use and enjoyment by the Owners of Lots within the Properties. The Common Area shall be maintained by the Association or its successors in interest unless dedicated to public use as set forth herein and such dedication is accepted by a governmental authority.

Section 4. "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 Durham County Registry.

Section 5. "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 Common Area owned in fee by the Association and 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 6. "Member" shall mean and refer to every person or entity who or which holds membership in the Association.

Section 7. "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 8. "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.

Section 9. "Unit" and "Dwelling" shall mean and refer to any building or portion thereof within the Properties which is designated and intended for use an occupancy as a residence by a single family, whether by the Owner(s) of such Unit or by tenants or lessees of such Owner(s).

**ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION
AND WITHIN THE JURISDICTION OF
THE AUTUMN RIDGE COMMUNITY ASSOCIATION, INC.**

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

Section 2. Annexation of Additional Property. At any time prior to December 31, 2006, additional land within the property described in Exhibit B to this Declaration (hereinafter the "Exhibit B Property") 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. 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.

Any property annexed pursuant to this Section 2 must be contiguous to property already subject to this Declaration and, if required, such annexation must be approved by the Federal Housing Administration and/or Veterans Administration. 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.

Section 3. Conveyance of Common Area in Annexed Property. Prior to the conveyance of the first Lot within any newly annexed property to an Owner, the owner of the annexed property shall convey to the Association all Common Area located within the newly annexed property. Title to such Common Area shall be conveyed in the same manner as set forth in Section 3 of Article IV of this Declaration.

**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. The Class A Members shall be the Owners of Class A Lots.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to and may not be separated from ownership of a 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 hereinafter defined). 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 Lot. Class A Members shall be entitled to one (1) vote for each Lot owned.

(b) Class B Lots. Class B Lots shall be all Lots owned by the Declarant and any North Carolina licensed general contractor (a "builder") who purchases a Lot from the Declarant for the purpose of constructing a Dwelling thereon. Subject to the provisions of this subsection, Declarant, as the Class B Member, shall be entitled to three (3) votes for each Lot that it owns, and each builder shall have three (3) votes for each Class B Lot that it owns.

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 held by the Class A Members equals the total number of votes held by the Declarant and the builders; provided, however, that, if Class B Membership is terminated pursuant to this subsection, Declarant may acquire additional votes and thereby be reinstated with all rights, privileges and responsibilities of Class B Membership if additional Lots within the Properties are formed by the subjection to this Declaration of new Lots as set forth in Article II hereof, thus making Declarant and the builders the Owners, by virtue of its ownership of the newly-annexed Lots and of other Lots owned by Declarant and the builders, of a sufficient number of votes (at the 3-to-1 ratio) to cast a majority of votes (it being hereby stipulated that the termination and rejuvenation of Class B Membership shall occur automatically as often as the foregoing facts shall occur); or

(2) on December 31, 2006.

When Class B Lots cease to exist, Declarant and the builders shall have the same voting rights as other Owners of Class A Lots.

Section 3. Leased Units. If any Unit within the Properties is leased or rented to tenants, the vote as expressed by the Owners of such rented Units shall not be entitled to any weight greater than forty-nine (49) percent on any matter pending before the Association.

Any lease or sublease must be for at least six (6) months, in writing, and contain substantially the following provision:

"Tenant shall obey, adhere to and be bound by all provisions of the Declaration Of Covenants, Conditions And Restrictions For The Autumn Ridge Community Association, Inc., recorded in the Durham County Registry. Each Tenant acknowledges that Tenant has received of a copy such Declaration and the rules and regulations of the Association."

If an Owner fails to include said provision in any lease or sublease, it shall be conclusively deemed to be included and part of said lease or sublease. Owner shall furnish the Association a copy of any leases or subleases of his/her Unit.

**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) the right of the Association to charge reasonable admission and other fees for the use of any facilities 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, sell 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 80% of the votes of the entire membership of the Association and at least 75% 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. Nothing herein shall be deemed to prohibit the Board of Directors, without consent of the Members, from granting easements over and across the Common Area to any public agency, authority or utility for the installation and maintenance of sewerage, utility (including CATV) or drainage facilities when, in the opinion of the Board, such easements 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 of Lots within the Subdivision and shall not be conveyed except to the City of Durham or to another nonprofit corporation organized for similar purposes;

(d) the right of the Association to borrow money and, with the assent of Members entitled to at least 80% of the votes of the entire membership of the Association and at least 67% of the votes appurtenant to each Class of Lots, mortgage, pledge, deed in trust, or 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 Members and the Association as provided in Article IV of the Declaration.

(e) the right of the Association to exchange all or part of the Common Area for other property and consideration of like value and utility. In any instance in which approval of the Members is required for an exchange, such approval may be given by the affirmative vote of a majority of the Members present and voting at a meeting of the Members called, at least in part, for the purpose of approving such exchange.

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 Durham 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 Durham 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) Suspension of Rights. The rights of any delegate of an Owner shall be suspended by, upon and during suspension of such Owner's rights as provided in Article IV, Section 1(b) and in Article IX, Section 9 of this Declaration.

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 Community 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 for 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 Durham 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 Community. 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 and 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 Community. Additionally, 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.

(a) 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.

(b) 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 Community, 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 Community; (ii) procure and maintain adequate liability insurance covering the Association and its Members, Directors and officers, 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.

(c) Association's Right of Entry.

The Association and the 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; (ii) making such improvements to the Common Area easement as have been approved by the Association and, if required, by the City of Durham; and (iii) maintaining the Common Area easement in its natural or improved state, including, without limitation, removal of fallen trees and other debris and, in general, keeping the easement area free from obstructions and impediments to its use.

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 attorneys' fees, shall be a charge on the land and, as provided in Section 47F-3-116 of the Act, 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 attorneys' 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.

Any monetary fine imposed against an Owner pursuant to Section 3 of Article VII of the By-Laws Of The Autumn Ridge Community 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 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, 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 4(b) 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; (vii) the charges for utilities used in connection with the Common Area; and (viii) such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1, 2001, the Maximum Annual Assessment shall be \$180.00 for each Class A Lot. Subject to the provisions of Section 4, below, the Maximum Annual Assessment for a Class B Lot shall be one-fourth (1/4) of the assessment for Class A Lots.

(a) From and after January 1, 2001, 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 Annual Assessment for the previous year unless such increase is approved as set forth in Section 3(b), below.

(b) From and after January 1, 2001, the Maximum Annual Assessment for Class A Lots may be increased without limitation if such increase is approved by the Declarant, if Class B Lots still exist, and not less than 67% of the votes cast by the Class A Members, in person or by proxy, at a meeting duly called for that purpose.

Section 4. Annual Assessments; Ratification of Budgets; Certificate of Payment. Subject to the provisions of this Section, the Board of Directors may fix the annual assessment at any amount

not in excess of the Maximum Annual Assessment in effect for the appropriate assessment year; provided, however, that, except as otherwise provided in this Section, the assessment established for each Class B Lot shall always be one-fourth (1/4) of the assessment for a Class A Lot. Annual assessments shall be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, semiannually, quarterly, or monthly basis, as determined by the Board of Directors.

Unless a lower amount is set by the Board of Directors, the initial 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. 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 of the first Lot within that phase to a person or entity other than the Declarant or a builder.

Subject to the provisions of this Section, at least twenty (20) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each Lot. At least ten (10) days before January 1 of each year, the Board of Directors shall send written notice of such assessment to every Owner subject thereto.

In the event that Class B Lots are converted to Class A, or Class A Lots are reconverted to a Class B, 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 Class B Lot that contains a Dwelling used as a model or sales center and not as a residence shall be assessed at the Class B rate. All other Class B Lots shall be assessed at the Class B rate until the first day following the date that is one year after issuance of the certificate of occupancy for the dwelling constructed on that Lot, after which time it shall be assessed at the Class A rate, but such Lot shall remain a Class B Lot for all other purposes.

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.

The Board of Directors shall adopt a proposed budget for the Association at least annually. Within 30 days after adoption of the proposed budget, the Board of Directors shall send a copy of the proposed budget and shall give written notice to the Members of a meeting of the Members to consider ratification of the budget, such meeting to be held not sooner than 10 days nor more than 60 days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. Except as provided in Section 6 below, there shall be no requirement that a quorum be present in order to vote on ratification of the budget (although a quorum must be present to vote on other matters). If the budget provides for annual assessments not greater than 10% larger than the assessment in effect for the immediately preceding year, such budget shall be deemed ratified unless Members having at least 80% of the votes of the entire membership

vote to reject the budget. If the budget provides for annual assessments more than 10% greater than the assessment in effect for the immediately preceding year, such budget shall be deemed ratified unless Members having at least 33% of the votes of the entire membership vote to reject the budget. If the proposed budget is rejected, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

Section 5. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable 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 4 of this Article. Special assessments shall be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, semiannually, quarterly, or monthly basis, as determined by the Board of Directors.

Section 6. Notice of Quorum for any Action Authorized Under Sections 3(b) and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 3(b) or 5 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 (60%) 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. Effect of Nonpayment of Assessments; Remedies. An 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 eighteen percent (18%) 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 attorneys' 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 8. 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 foreclosure of a first mortgage or deed of trust, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of any assessments 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 9. Exempt Property. All property dedicated to and accepted by a public authority and all property owned by a charitable or nonprofit 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 10. 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 Lot 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 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, Bylaws, 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 Durham or to another non-profit corporation for the aforementioned purposes. Nothing herein shall be deemed to prohibit the Association from exchanging Common Area as provided in Section 1(e) of Article IV of this Declaration 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. Subject to the ordinances of the City of Durham, 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 unless otherwise required by the ordinances of the City of Durham. 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 and fire lines; 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. Owner's 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 and/or Common Area 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. No fence, wall, storage shed or any other obstruction shall be erected within such area adjoining a Dwelling.

Section 4. Association's Easement and Right of Entry. The Association, for itself and its employees, agents, contractors, subcontractors and invitees, shall have a perpetual access easement over the each Lot to the extent reasonably necessary to perform the maintenance to be performed by the Association as provided in Article IV of this Declaration.

Section 5. Easement Over Common Area. A perpetual, non-exclusive easement over the Common Area lies is hereby granted to each Lot and its Owners, family members and tenants of such Owners, the occupants of such Lot, and guests and invitees of such Owners, tenants or occupants, for the purpose of providing access, ingress and egress to and from the Common Area and for the use thereof.

Section 6. Easement For Encroachments. In the event that any structure erected on a Lot encroaches upon any other Lot or the Common Area, and such encroachment was not caused by the purposeful act or omission of the Owner of such Lot, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Area or other Lot for so long as such encroachment shall naturally exist. In the event that any structure erected principally on the

Common Area encroaches upon any Lot, then an easement shall exist for the continuance of such encroachment of such structure onto such Lot for so long as such encroachment shall naturally exist. The foregoing shall not be construed so as to allow any extension or enlargement of any existing encroachment or to permit the rebuilding of the encroaching structure, if destroyed, in a manner so as to continue such encroachment.

ARTICLE VIII ARCHITECTURAL CONTROL

No building, fence, sign (including unit identification signs), wall or other structure (including, without limitation, replacement of any previously existing improvement) shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, changing materials or color of any exterior portion of any such improvement, including roof shingles), 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, such requested Improvements shall be deemed to have been disapproved. The Declarant shall have the right to charge a reasonable fee, not to exceed \$100.00, 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 Community.

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 Durham 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, 2006, 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.

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 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 75% of the Lots, and thereafter by an instrument signed by the Owners of not less than 67% of the Lots. No amendment shall be effective unless it has first been approved, 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 Durham 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 Governmental Entities. The City of Durham 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. No Lot within the Community may be subdivided by sale or otherwise so as to reduce the total lot area shown on the recorded plats of the Community, except by and with the consent of the Declarant (while there is Class B Membership) and of the City of Durham.

Section 7. Declarant's Right To Change Development. With the approval of the City of Durham, and subject to such terms and conditions as the City may impose, Declarant shall have the right, without consent or approval of the Owners, to create dwelling units, add Common Area, and reallocate units within, and withdraw real property from the 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 full replacement value hazard insurance on real and personal property owned by the Association, and shall procure and maintain officers', directors' and employees' 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. Rules and Regulations. The Board of Directors shall have the authority to adopt additional rules and regulations governing the use of the Common Area and the Lots within the Community and shall furnish a written copy of said rules and regulations to the Owner(s) of each Lot at least 15 days before such rules and regulations become effective. Any violation of such rules shall be punishable by fine and/or suspension of voting rights as provided in this Declaration.

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 Bylaws, rules and regulations adopted Association, and the Restrictive Covenants applicable to the Properties, in accordance with procedures set forth in the Bylaws, which sanctions may include, but are not limited to, reasonable monetary fines, which will constitute a lien upon the Lot of the violator, and suspension of the right to vote and the right to use the Common Area and facilities thereon.

In addition, pursuant to procedures set forth in the Bylaws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of Owner and tenant vehicles that are in violation of parking rules) and may suspend the right of an Owner to use any Common Area and facilities thereon if the Owner 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. Any entry onto any Lot for purposes of exercising this power of self-help shall not be deemed as trespass. All remedies set forth in this Declaration and the Bylaws 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.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed under seal on this the 18th day of October, 1999.

DECLARANT:

ROBERT C. RHEIN INTERESTS, INC. (Corporate Seal)

By: Richard M. Watson, V.P.
Vice President

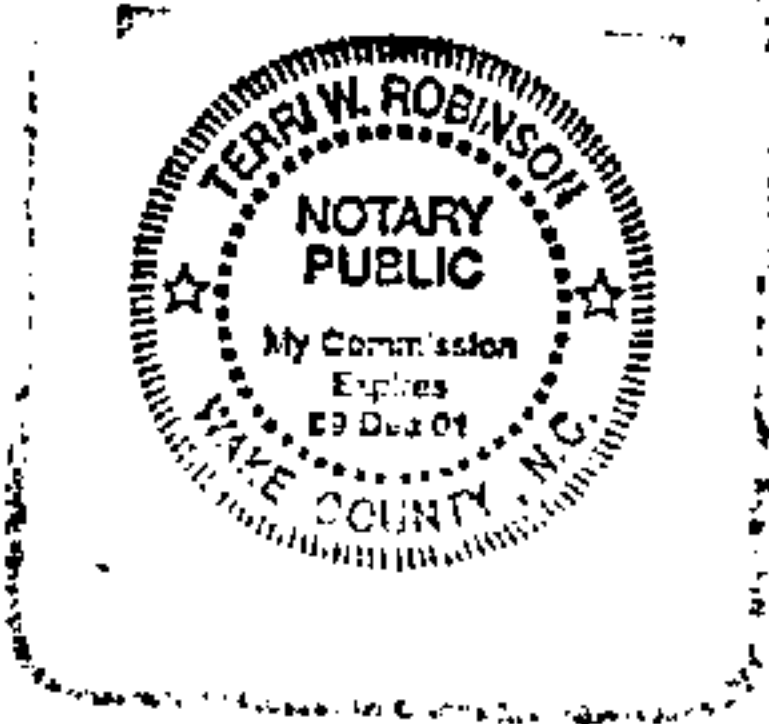
ATTEST:
Richard W. Moore
Assistant Secretary



STATE OF NORTH CAROLINA - WAKE COUNTY

I, TERRI W. ROBINSON, a Notary Public for Wake County, North Carolina, certify that Richard W. Moore personally came before me and acknowledged 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 stamp and seal, this the 18th day of October, 1999.



TERRI W. ROBINSON
Notary Public
My commission expires: 12/09/01

State of North Carolina - Durham County

The foregoing or annexed certificate(s) of TERRI W. ROBINSON
A Notary (Notaries) Public for the Designated Governmental units is(are) certified to be correct.

This the 22 day of Oct A.D. 19 99
WILLIE L. COVINGTON Willie L. Covington
Register of Deeds By: Assistant Deputy Register of Deeds

EXHIBIT A

AUTUMN RIDGE
Phase I

Lying and being in the City of Durham, Lebanon Township, Durham County, North Carolina, and being more particularly described as follows:

All of the real property, containing 21.880 acres, more or less, shown on the map entitled "Final Plat And Right-Of-Way Dedication, AUTUMN RIDGE - Phase I" recorded in Plat Book 144, Pages 122-123, Durham County Registry, which property includes Lots 38-87 and 131-133, inclusive, and the Common Area identified as "Open Space, 2.374 acres" on the aforementioned recorded plat, to which plat reference is hereby made for a more particular description.

EXHIBIT H

Lying and being in the City of Durham, Lebanon Township, Durham County, North Carolina, and being all of the property, containing 68.586 acres, more or less, shown on the deed recorded in Book 2619, Page 787, Durham County Registry, SAVING AND EXCEPTING THEREFROM the following described property:

All of the real property, containing 21.880 acres, more or less, shown on the map entitled "Final Plat And Right-Of-Way Dedication, AUTUMN RIDGE - Phase 1" recorded in Plat Book 144, Pages 122-123, Durham County Registry, which property includes Lots 38-87 and 131-133, inclusive, and the Common Area identified as "Open Space, 2.374 acres" on the aforementioned recorded plat, to which plat reference is hereby made for a more particular description.