



NOTICE REGARDING COVENANTS AND/OR RESTRICTIONS

The following Covenants and/or Restrictions are added as a courtesy only and are NOT WARRANTED by the property owner, their broker or agent as to completeness, accuracy, currency, or enforceability. Any interested buyer prospect is urged as part of their due diligence to contact the relevant Community Association or developer to determine for themselves what covenants and/or restrictions currently apply, how long they may remain in force, and if any changes or amendments may be currently under consideration. Additionally, or alternatively, one may wish to consider hiring an attorney to conduct this search for them and provide advice as needed.

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GEORGIA, FANNIN COUNTY
CLERK'S OFFICE SUPERIOR COURT
FILED FOR RECORD 1/8/01
AT 4:30PM RECORDED 1/8/01
BOOK 378 PAGE 136-47
Jesse O. [Signature]
CLERK OF SUPERIOR COURT

00217

RETURN RECORDED DOCUMENT TO: (Recording Information)
G. William Little, III, P.C.
P.O. Box 2670
Blue Ridge, GA 30513
File # _____
8th District, 1st Section
Land Lot Numbers 202 & 231
STATE OF GEORGIA
COUNTY OF FANNIN

ROAD EASEMENT AND MAINTENANCE AGREEMENT AND
RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION

This ROAD EASEMENT AND MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION is made this 8th day of January, 2001, by the undersigned Hogback Haven Development Corporation, by Orpheus E. Deaver as President (hereafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the fee simple owner of all that tract or parcel of land lying and being in Fannin County, Georgia, and being more particularly described below with any additional property added hereto by amendment (hereinafter referred to as the "Submitted Property"), said property being:

All that tract or parcel of land lying and being in the 8th District and 1st Section of Fannin County, Georgia and being a part of Land Lot No. 202 and 231, containing 12.7 acres of land, more or less, as shown on a plat of survey by Lane S. Bishop, G.R.L.S. # 1575, dated December 1, 2000, and recorded in Plat Hanger C - 73, Pages 3-4, in the Office of the Clerk of Superior Court, Fannin County, Georgia. Said plat being incorporated herein and made a part of this deed by reference thereto for a more complete and accurate metes and bounds description of the above-referenced property. The above-described property to be known as Hogback Haven Subdivision, Phase I.

Said conveyance is made subject to any and all easements, restrictions and rights of way as set forth on the aforementioned plat or as appearing of record.

Being a portion of that property conveyed from the United States of America to Orpheus E. Deaver by Quit-Claim Deed dated July 25, 1956, said Quit-Claim Deed recorded at Deed Book 24, Page 207, Fannin County Deed records.

Said property is conveyed subject to all easements, restrictions, and rights of ways as set forth on said recorded plat or as appearing of record.

WHEREAS, Declarant desires to enhance the value and provide for the uniform development of the Subdivision;

NOW, THEREFORE, the Declarant hereby declares that the Submitted Property, as well as adjacent properties to be submitted by Declarant and encumbered by these items, shall be held, conveyed, encumbered, used, occupied, and improved subject to the following covenants and restrictions, as well as easements and assessments, all of which are in furtherance of a plan for subdivision, improvement and sale of real property and every part thereof. The covenants, restrictions and easements set forth herein shall run with the land and shall be binding on all parties having or acquiring any right, title or interest therein or thereto, and shall, subject to the limitations herein provided, inure to the benefit of each Owner of property, his heirs, successors, and assigns.

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1. The exterior of all structures to be constructed on any of said lots shall be completed within twelve (12) months from date that construction begins except where fire or other natural casualty makes completion impossible within the (12) month period. In the event of fire or other casualty causing damage to a structure, such damage shall be repaired, or such structure shall be removed (including debris) within six (6) months from the date thereof. No outbuilding, garage, shed tent, travel trailer, or temporary building of any kind shall be erected prior to commencement of the erection of a residence, as is permitted hereby, and no outbuilding, garage, shed, tent, travel trailer, basement, or temporary building shall be used for permanent residence purposes; provided that this paragraph shall not be deemed or construed to prevent the use of a temporary construction shed, or travel trailer during the period of actual construction of any residential structure on such property, nor the use of adequate sanitary toilet facilities for workmen which may be provided during such construction. All building debris shall be cleaned up and removed from the lot and all removal of excess dirt, leveling and terracing and other finish grading work must be completed within sixty (60) days from completion of the building construction.

Any portion of the subject lot which, by land-disturbing activity, has been altered from its natural state, shall be landscaped. Landscaping shall include shrubs, trees, grass, and other like vegetative plantings and which shall be kept maintained, properly cultivated and free of trash debris and other unsightly material. Landscaping shall be installed within (90) days following the completion of any residential structure or other land disturbing activity.

Nothing contained in this numbered provision shall prohibit the following:

- (a) the removal of dead or diseased trees as may be reasonably required for the protection of the lot owner or others from property damage or bodily injury;
 - (b) the installation, planting and maintenance of gardens appurtenant to the residential use of the lot;
 - (c) the installation or maintenance of swimming pools, terrace walls, or other permanent above or below ground fixtures to the realty.
2. No dwelling shall contain less than 1000 square feet of heated living area on the first floor, exclusive of garages, basements, covered walks, open and/or screened porches, patios, terraces, pool areas or other similar areas. Total square footage of any dwelling must be 1600 heated square feet or more.
 3. All exterior wood surfaces of any building shall be either painted or stained, or treated for weathering where a natural weathered appearance is desired. All exterior concrete, cement or cinder block surfaces shall be finished in wood, brick, stone or stucco.
 4. All utility lines, including electrical, telephone, gas, water, cable TV, or other wire or pipe of any kind, shall be installed and maintained underground. All propane storage tanks shall be installed underground, enclosed or located on each lot so as to not be visible from the subdivision streets.
 5. No inoperative cars, motorcycles, trucks, or other types of vehicles shall be allowed to remain either on or adjacent to any Lot for a period in excess of one week; provided, however, that this provision shall not apply to any such vehicle being kept in an enclosed garage. There shall be no major repair performed on any motor vehicle on or adjacent to any Lots in the subdivision. All vehicles shall have current license plates.
 6. No mobile, modular, prefab home, manufactured home, or homes constructed in whole or in part off of any Lot will be allowed on any Lot. No prefabricated outbuildings shall be allowed on any Lot. No structure of a temporary nature shall be used as a residence either temporarily or permanently (including but not limited to trailers, basements, tents, shacks, garages, or barns). Nothing contained herein shall preclude the use of pre-manufactured structural systems, such as roof trusses, joint systems, log home packages, etc., which are specifically designed as separate parts and components to be shipped to the construction site for use or erection as an integral part of on site construction.

An exception to this numbered provision is made for temporary use (no more than four (4) weeks per calendar year) of a camper trailer or recreational vehicle by a lot owner or their invitees.

7. Trailers and Commercial Vehicles - No parking of any travel trailer, or motor home (unless, in the case of a travel trailer or motor home, said travel trailer or motor home is housed in a completely enclosed garage, with the exception noted in #6 above), truck (excluding pickup truck), camper, tent,

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or other similar vehicle, outbuilding, or structure shall be placed on the property at any time for a period exceeding (48) hours. No industrial, commercial or farm equipment or vehicles, including without limitation dump trucks, moving vans, step vans, buses and lowboy trailers, shall be allowed to park or remain on the Property, except for so long as necessary for use in connection with ongoing construction.

- 8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes. Such household pets must not constitute a nuisance or cause unsanitary conditions. Large and/or potentially vicious breeds of dogs are specifically excluded, and may not be raised, bred or kept on any lot. Any animals must be under the control of the owner at all times.
- 9. Except during the construction of permanent improvements thereon, no Owner shall excavate or extract earth from any lot for any business or commercial purpose or otherwise. No elevation changes shall be permitted which materially affect surface grade of surrounding lots.
- 10. Driveways, landscaping and the general appearance of an owner's lot shall be maintained in good order, and it shall be the responsibility of each lot owner to prevent the development of a noxious, unclean, unsightly, or unkept condition of any building or grounds on said owner's lot which substantially decreases the beauty of the neighborhood as a whole or of a specific area; provided, however, that conditions which are normal, usual or customary to similar construction shall be permitted during the actual period of construction or improvements on any lot..
- 11. Garbage and trash - No trash, garbage, junk, appliances or other waste material or refuse shall be viewable, placed or stored on any Lot except in covered sanitary containers. All such sanitary containers must be stored in each home, or within an enclosure designed therefor, which must be at least five (5) feet from any Lot line.
- 12. Satellite Dishes – Satellite dishes thirty six (36") inches or less in diameter are permitted, but no satellite dish greater than (36") shall be allowed unless said dish is located and enclosed to be non-viewable by other lot owners.
- 13. Outdoor lighting - All outdoor lighting shall be so shaded and directed such that the light therefrom is directed to fall only on the same premises where light sources are located.
- 14. Clotheslines - No garments, laundry, rugs or other articles may be aired or dried on any Lot, unless the same are located and enclosed to be nonviewable by other lot owners.
- 15. Construction – Construction shall be prohibited on Sunday.
- 16. Road Maintenance during construction -- Each lot owner shall be responsible for any damage to the subdivision roads caused directly by construction on their lot.
- 17. All Lots shall be used for residential purposes only and no business or business activity shall be carried on upon any Lot at any time which solicits the presence of the general public, involves retail traffic, or involves the storage of inventory or equipment outside the dwelling structure located on a lot, with the exception that the Homeowners' Association may vote to allow short-term or time-share rentals of homes in the submitted property. For any rentals authorized, there shall be an adult chaperone over the age of (25) onsite at all times that there is a person or persons less than (18) years of age onsite.

Nothing shall prohibit the developer, its agents, successors, or assigns, or any lot owner, from constructing one or more single family residences (in accordance with these covenants and restrictions) for the purpose of sale thereof, or as a model, and exhibiting the same, or inviting prospective purchasers to the same for the purpose of making such sale; nor shall the developer or any lot owner be prohibited from exhibiting any unimproved lot, or inviting prospective purchasers thereto, for the purpose of selling such lots.

- 18. No sign of any kind shall be displayed to the public view on any lot except such signs as comply with the provisions hereof. Builders may display such signs as are normally utilized to advertise the property during the construction and sales period. After an Owner closes his purchase on any lot in the subdivision, the only signs permitted on his lot will be: (a) a professionally prepared

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sign for identification purposes (not more than one square foot in area); and (b) a single sign to sell said lot of a type used by Brokers in the area, with the usual wording, such sign to be no more than four square feet in size. In the event any such sign is unsatisfactory, the sign will be removed. These limitations shall apply to signs of all types, including banners, signs on cloth, paper, cardboard or other materials.

- 18. A lot owner may remove no more than 60% of the tree growth, spread evenly over the lot, with the exception of the home's location and a reasonable size lawn..
- 19. No parcel, or its configuration, as originally sold and conveyed by Declarant, shall be thereafter altered in size or configuration, or subdivided, by any parcel owner or his successors and assigns, provided that, Hogback Haven Development Corporation, by Orpheus E. Deaver as President reserves the unconditional right to alter the size or configuration, subdivide, or create new parcels, and/or to replat any unsold parcel, prior to its original sale and transfer to a parcel owner, and in such case any such altered or newly created parcels shall be subject to these covenants.
- 20. Declarant reserves for himself and herein grants, to all owners of the above-referenced lots, all necessary easements for installation and maintenance of all current and future utilities, with said installations contemplated to be within an area adjacent to the road system shown on the aforementioned plat.

Declarant reserves the unconditional right to dedicate any subdivision road and adjoining rights of way to an appropriate governmental agency.

CONTROLLED ACCESS PROVISIONS

Decisions related to security measures, including, but not limited to, access privileges to visitors or service personnel shall be made by the Homeowners' Association. No decision shall apply to Declarant or his designees, who shall have unlimited access until all lots have been transferred from Declarant's ownership.

**DECLARATION OF HOMEOWNERS' ASSOCIATION
FOR HOGBACK HAVEN SUBDIVISION**

The following words, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Homeowners' Association" or "Association" shall mean and refer to HOGBACK HAVEN Subdivision Homeowners' Association, formed by the Declarant.
- (b) "Properties" shall mean and refer to all such properties delineated as HOGBACK HAVEN Subdivision, as well as adjacent properties added by Declarant to the "Submitted Property."
- (c) "Development" shall mean the entire HOGBACK HAVEN Subdivision, include all phases.
- (d) "Common Properties" shall mean and refer to the portions of the Properties described as "common area(s)," "common drive(s)," or as "street(s)," "road(s)," "walkway(s)," "pathway(s)," "pond access," "dock(s)," "parking area(s)," "utility service area(s)," "park(s)," and shall include, but not be limited to, all parts of the Properties conveyed by the Declarant to the Homeowners' Association.
- (e) "Unit" or "Lot" shall mean and refer to any Lot shown on a plat of all, or part, of HOGBACK HAVEN Subdivision as now or hereafter recorded on the public records of Fannin County, Georgia.
- (f) "Declarant" shall mean and refer to Hogback Haven Development Corporation, by Orpheus E. Deaver as President, its successors and assigns.
- (g) "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Properties, including the Declarant with respect to any unsold Lot, but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

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(h) "Member" shall mean and refer to all those Owners who are members of the Homeowners' Association as provided below.

Section 1: Membership and Voting Rights in the Association

Every person or entity who is a record Owner of a fee or undivided fee interest in any unit or Lot shall be a Member of the Homeowners' Association, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be a Member. If two or more Lots (or portions thereof) are combined so as to serve as a residence Lot for one residence, each lot owned shall have its own voting for voting purposes.

Section 2: Voting Rights

The Homeowners' Association shall have one class of voting membership:

A. Class A: Class A members shall be all those Owners as defined in Section 1 with the exception of the Declarant. Class A Members shall be entitled to one vote per Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Until the sale of all lots owned by Declarant, his heirs or assigns, Declarant shall solely control the affairs of the Homeowners' Association, which shall have no powers until the sale of all lots unless said powers shall be authorized, in writing, by the Declarant.

Anything in this Declaration, the Homeowners Association Articles of Incorporation or By-laws to the contrary notwithstanding, for as long as Developer is the Owner of any lot within the properties, no vote, decision, or action which requires the approval or a vote of a majority or more of the Members of the Homeowners' Association voting on said matter, irrespective of class, shall be effective or implemented until Declarant has approved of or consented to same in writing directed to the Board of Directors of the Homeowners' Association.

Section 3: Declaration Superiority

Neither the Articles of Incorporation nor the by-laws shall, for any reason, be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail.

Section 4: Duties of the Association

The Homeowners' Association shall, in addition to such obligations, duties and functions as are assigned to it by other provisions of this Declaration, have the obligations, duties and functions (subject to the provisions of this Declaration), to do and perform each and every one of the following for the benefit of the Owners and for the maintenance, administration and improvement of the Properties:

- a. Lands All real estate encompassed in the above legal description is subject to the membership requirements set forth herein and in the by-laws.
- b. Enforcement To take such action, whether or not expressly authorized herein or in any governing instrument, as may be reasonably necessary to enforce the restrictions, limitations, covenants, affirmative obligations, conditions and other provisions of this Declaration, and of the Articles of Incorporation and by-laws.
- c. Operation and Maintenance of Common Property To own, operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Property, together with all easements for operation and maintenance purposes and for the benefit of the Homeowners' Association or its Members over and within the Common Properties; to keep all improvements of whatever kind and for whatever purpose from time to time located thereon in good order, condition and repair; and to maintain any parking areas and streets free and clear from obstructions and in a safe condition for vehicular use at all times.

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The Homeowners' Association shall maintain and repair the road system within the subdivision. NOTE: Locust Lane and a portion of Turkey Ridge Road are a Class III road and with proper maintenance may be accepted by Fannin County as a public road.

- d. Water and other Utilities Acquire, provide and/or pay for water, sewer, garbage disposal, electrical, telephone and gas, cable television, and any other necessary utility services for the Common Properties.
- e. Taxes and Assessments To pay all real and personal property taxes and assessments, if any, separately levied upon or assessed against the Homeowners' Association and/or any property owned by the Homeowners' Association. Such taxes and assessments may be contested or compromised by the Homeowners' Association; provided, however, that they are paid or a bond insuring the payment is posted prior to the sale or other disposition of any property to satisfy the payment of such taxes.
- f. Dedication for Public Use To promptly dedicate such streets, roads and drives and such water, sewer, or other utility lines or facilities and appropriate easements as may be specified by Declarant or the Homeowners' Association to such municipalities, utility companies, political developments, public authorities, or similar agencies or bodies as may be designated by Declarant or the Homeowners' Association.
- g. Insurance To obtain and maintain insurance as provided for by the by-laws or this Declaration.
- h. Rule Making To make, establish, promulgate, amend or repeal any rules and regulations as may be deemed necessary by the Homeowners' Association.
- i. Enforcement of Restrictions and Rules To perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary or appropriate to enforce or effectuate any of the provisions of this declaration and the rules and regulations of the Homeowners' Association.

Section 5: Powers and Authority of the Homeowners' Association

The Homeowners' Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Homeowners' Association under this Declaration, the Articles of Incorporation and/or the by-laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Homeowners Association including the following which are listed without intent to limit the foregoing articulation:

- a. Assessments To levy assessments on the Owners of Lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.
- b. Right of Enforcement In its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of any provision of this Declaration and the rules and regulations promulgated by the Homeowners' Association, and to enforce, by mandatory injunction or otherwise, all of the provisions thereof.
- c. Easements and Rights-of-Way To grant and convey to any third party easements and rights-of-way in, on, over, and under the Common Properties and any private streets located thereon for the purposes of constructing, erecting, operating or maintaining thereon, therein, or thereunder, (1) overhead or underground lines, cables, wires, conduits or other devices for the transmission of electricity and for lighting, heating, power, telephone, community television, radio and audio and antenna facilities and for other appropriate purposes; (2) public sewers, storm water drains and pipes, water systems, sprinkler systems, water, heating and gas lines or pipes; and (3) any similar public or quasi-public improvements or facilities.
- d. Right of Entry Without liability to any Owner, to cause its agents, independent contractors and employes, after notice, to enter upon any Lot or the exterior of any residence for the purpose of enforcing any and all of the provisions of this Declaration, for the purpose of maintain and repairing such Lot or residence if for any reason whatsoever the Owner thereof fails to

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maintain it in good condition and repair and so as to present an attractive exterior appearance as required by the Restrictive Covenants below.

e. Maintenance and Repair Contracts To contract and pay for, or otherwise provide for, the maintenance, restoration, and repair of all improvements of whatsoever kind and for whatsoever purpose from time to time located upon or within the Common Properties, including the road system.

f. Insurance To obtain, maintain and pay for such insurance policies or bonds, whether or not required by provision of this Declaration or the by-laws, as the Homeowners' Association may deem to be appropriate for the protection or benefit of the Homeowners' Association, the Members of the Board, Owners, their tenants or guests, including but not by way of limitation, fire and extended coverage insurance covering the Common Properties, liability insurance, war risk insurance, boiler insurance, workmen's compensation insurance, malicious mischief insurance, automobile non-ownership insurance, and performance and fidelity bonds.

g. Utility Service To contract and pay for, or otherwise apply for, any necessary utility services including, but without limitation, water (subject to the Water specifications as below), sewer, garbage, electrical, telephone, cable television and gas services for the benefit of the Homeowners' Association.

h. Professional Services To contract and pay for, or otherwise provide for, any necessary services of architects, engineers, attorneys, certified public accountants, and such other professional and non-professional services as the Homeowners' Association deems necessary.

i. Street Maintenance To contract and pay for, or otherwise provide for, the construction, reconstruction, repair, replacement, or refinishing of any streets, roads, drives, parking areas, or other paved areas upon any portion of the Common Properties not dedicated to any governmental unit.

j. Protective Services To contract and pay for or otherwise provide for fire, security, and other such protective services as the Homeowners' Association shall from time to time deem appropriate or the benefit of the development, the Owners, their tenants and guests.

k. General Contracts To contract and pay for, or otherwise provide such materials, supplies, furniture, equipment, and labor as and to the extent the Homeowners' Association deems necessary.

m. Liens To pay and to discharge any and all liens from time to time placed or imposed upon any Common Property on account of any work done or performed by or on behalf of the Homeowners' Association in the fulfillment of any of its obligations and duties of ownership, maintenance, repair, operation or administration.

n. Controlled access provisions To make decisions related to security measures, including, but not limited to, access privileges to visitors or service personnel. These decisions shall not apply to Declarant or his designees, who shall have unlimited access as long as lots remain unsold by Declarant, its heirs or assigns.

Section 6: Property Rights in Common Properties

A. Members' Easements of Enjoyment: Every member shall have a nonexclusive right, license, privilege, and easement of enjoyment in and to the Common Properties (if any), and such easement shall be appurtenant to and shall pass with the title to every Lot. In addition, the Declarant does hereby grant unto the Owners of each Lot in the properties a nonexclusive easement in perpetuity for ingress and egress over and across the streets, roads and walks in the Common Properties for all lawful purposes.

B. Title to Common Properties: The Declarant shall convey to the Homeowners' Association legal title to the Common Properties, subject, however, to the following covenant which shall be deemed to run with the land and shall be binding upon the Homeowners' Association, its successors and assigns:

In order to preserve and enhance the property values and amenities of the development, the Common Properties and all facilities now or hereafter built or installed thereon shall at all times

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be maintained in good repair and condition and shall be operated in accordance with high standards. The maintenance and repair of the Common Properties shall include, but not be limited to, the repair of damage to roadways, walkways, outdoor lighting, fences, and landscape maintenance.

C. Extent of Members' Easements: The rights and easements of enjoyment created hereby shall be subject to the following:

- a. The right of the Homeowners' Association, in accordance with its Articles and by-laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties.
- b. The right of the Homeowners' Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure.
- c. The right of the Homeowners' Association, as provided in its Articles and by-laws, to suspend the enjoyment right of any Member, except as to ingress and egress to and from such Member's Lot, for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.
- d. The right of the Homeowners' Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for the installation, maintenance, and inspection of lines and appurtenances for public and private water, sewer, drainage, cable television, telephone, electricity, gas and other utilities, and for completion of the development. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two thirds (2/3) of the votes irrespective of class of membership has been recorded, agreeing to such dedication, and unless written notice of the proposed agreement and action thereunder is sent to every member at least thirty (30) days in advance of any action taken.
- e. The right of the holder of a mortgage encumbering the Common Properties, upon foreclosure or proceeding in lieu of foreclosure, to enter upon and take possession of the Common Properties, for the purpose of operating, administering and maintaining said Common Properties for the use and benefit of all Owners of Lots within the Properties, subject to the terms, conditions and provisions of this Declaration.

D. Easement Reserved Unto Declarant Over Common Property and Development: The Declarant hereby reserves unto himself, his successors and assigns, all necessary licenses, rights, privileges and easements over, upon, under and across the Development, including but not limited to, (1) the right to use the said properties for rights-of-way and easements to erect, install, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains, pipes, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, cable, television, sewer, water or other public conveniences or development utilities; (2) the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, convenience, safety and appearance; (3) the right to locate thereon wells and pumping stations and all other water system equipment; (4) the right and easement of ingress and egress for purposes of development and construction; and (5) such other rights as may be reasonably necessary to complete in an orderly and economic manner the development of all present and future phases of HOGBACK HAVEN Subdivision; provided, however, that said reservation and right shall not be considered an obligation of the Declarant to provide or maintain any such utility, development, or service. Declarant also reserves the right to connect with and make use of the utility lines, wires, pipes, conduits, cable, television, sewers and drainage and other utility lines which may from time to time be in or along the streets and roads within the Development. Finally, the Declarant reserves the right to establish and continue to use any sales offices, signs, or parking spaces located in the Development in its effort to market the development. The easements and rights-of-way herein reserved shall continue in existence in favor of the Declarant after conveyance of all lots owned by Declarant until such time as such rights are specifically and expressly relinquished by Declarant by reference to this provision. This paragraph may not be amended without the consent of the Declarant.

E. Transfer of Easement by Declarant: The Declarant hereby covenants, for himself, his heirs, successors and assigns, that he will transfer the easements, licenses, rights and privileges reserved in this Declaration by Declarant to the Homeowners' Association upon the latter of 10 years from the date

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hereof or the sale by Declarant of the last Lot held for sale in the ordinary course of business by Declarant in any and all phases of the development.

Notwithstanding the above, Declarant, his heirs and assigns shall retain easement access rights for ingress, egress and utilities over and across the Development regardless of their ownership of lots in the Development.

Section 7: Covenant for Maintenance Assessments

A. Personal Obligation of Assessments: Claim of Lien: Each owner of any Lot (with the exception of the Declarant) 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 Homeowners' Association: (1) Annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest and costs of collection including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property or Lot against which each such assessment is made. Each such assessment, together with interest, costs of collection, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for such delinquent assessments shall also pass to his successors in title, provided the Homeowners' Association has caused a claim of lien to be recorded in the Public Records of Fannin County giving notice to all persons that the Homeowners' Association is asserting a claim of lien upon the Lot prior to the conveyance of title to the Lot. Said claim of lien shall state the description of the residence, the name of the record Owner thereof, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien have been fully paid. Such claims of lien shall be signed and verified by and officer of the Homeowners' Association or by a managing agent of the Homeowners' Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien. Liens for assessment may be foreclosed by suit brought in the name of the Homeowners' Association in like manner as a foreclosure of a mortgage on real property. In such foreclosure, the Owner of a residence shall be required to pay a reasonable rental for the residence and the Homeowners' Association shall be entitled, as a matter of law, to the appointment of a receiver to collect the same.

B. Purpose of assessments: The assessments levied by the Homeowners' Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties, and in particular for the improvement and maintenance of properties, services, and facilities devoted to the purpose and related to the use and enjoyment of the Common Properties and of the Lots situated upon the Properties, including but not limited to:

1. Payment of operating expenses of said Homeowners' Association;
2. Lighting, improvement, maintenance and beautification of access ways and easement areas, and the acquisition, maintenance, repair and replacement of directional markers and signs and traffic control devices, and cost of controlling and regulating traffic on the access ways, which are the responsibility of the Homeowners' Association;
3. Maintenance, improvement, and operation of drainage easements and systems;
4. Management, maintenance, improvement and beautification of streets (the Homeowners' Association shall have sole control over and responsibility for road maintenance throughout the development and specific to the road system as originally designated on Declarant's development plat of survey referred to above), lakes, ponds, buffer strips, and recreation areas and facilities;
5. Garbage collection and trash and rubbish removal; but only when and to the extent specifically authorized by said Homeowners' Association;
6. Providing police protection, night watchmen, guard and gate services, but only when and to the extent specifically authorized by said Homeowners' Association;
7. Doing any other thing necessary or desirable, in the judgment of said Homeowners' Association, to keep the community neat and attractive or to preserve or enhance the value of the Properties therein, or to eliminate fire, health or safety hazards, or, which in the judgment of said

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Homeowners' Association, may be of general benefit to the Owners or occupants of lands included in the Properties.

C. Annual Assessments and Initial Assessment

Until the year beginning January 1, 2001, the annual assessment shall be \$50.00 per Lot, payable on the first day of each year. This annual assessment shall be prorated in the year of initial purchase. The funds produced by such assessments shall be for working capital of the Homeowners' Association. The annual assessment shall be paid directly to the Homeowners' Association, or, in the event the Association is not yet activated, to the Declarant to be held in accordance with the above provisions.

D. Increase of Assessments The Board of Directors of the Homeowners' Association shall annually, and on the 1st of each year, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment in advance for each year. Any new annual assessment exceeding one hundred ten percent (110%) of the assessment for the previous year shall have the approval of two-thirds (2/3) of the votes of the Members (if any) who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance of the meeting and which notice shall set forth the purpose of the meeting.

E. Special Assessments for Capital Improvements In addition to the annual assessments authorized by the above section, the Homeowners' Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties and/or road system, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance, and shall set forth the purpose of the meeting.

F. Quorum and Notice for any action as set forth in "Increase of Assessments" and "Special Assessments for Capital Improvements" Written notice of any meeting called for the purpose of taking any action authorized in this Section shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of Members in person or by proxy entitled to cast a majority of all the votes of each class of membership shall constitute a quorum.

G. Uniform rate of assessment Both annual and special assessments must be fixed at a uniform rate for all Lots, and shall be collected on an annual basis (by January 10th of each year).

H. Certificate of Payment The Homeowners' Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing and in recordable form, signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

I. Effect of Nonpayment of Assessment; Personal Obligation; the Lien; Remedies of the Association If the assessments are not paid on or before fifteen (15) days after the date when due, then such assessment shall become delinquent and shall, together with interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

If the Annual assessment is not paid within thirty (30) days after the date when due, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum. The Homeowners' Association may bring an action of law against the Owner personally obligated to pay the same, or to foreclose the lien against the property, in the same manner as foreclosure of a mortgage, and there shall be added to the amount of such assessment interest as provided herein together with the costs of the action and collection of the assessment, including a reasonable attorney's fee and costs and fees on appeal. Reasonable attorney's fees and costs of collection shall be recoverable whether or not suit be brought. If the Homeowners' Association files a claim of lien on the public records of Fannin County, against any Lot, a seventy-five dollar (\$75.00) lien fee may be charged and shall be added to the unpaid assessment and secured by the lien hereby created.

Notwithstanding the above, during the period of Declarant's ownership of any lot, no assessments shall apply to Declarant or any of the lots owned by Declarant.

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WATER USE, MAINTENANCE AND EASEMENT AGREEMENT

There is located on the Development a Water System servicing the submitted property and all other properties added by amendment.

All future lot owners of Hogback Haven Subdivision and all other properties added by amendment shall have a permanent and perpetual right to contract for water service (and may obtain water service only from said Water System) from the above-described water system as detailed in the Water Agreement each owner shall sign at the closing of the purchase of their lot.

Additionally, at the point of closing of the sale of a lot, each lot owner shall pay a fee of \$1,500.00 per lot for access to water service. At the point of tap-on to the water system (per the terms of the owners' water agreement), the owner shall pay \$500.00 as a tap-on fee for installation of each water meter. These fees shall not include installation fees associated with running a water line from the meter to the owner's dwelling, said running of this water line and maintenance of same, as well as any filtration equipment and maintenance, shall remain the responsibility of the Owner.

ROAD MAINTENANCE ASSESSMENTS

Personal Obligation of Assessments: Claim of Lien: All purchasers of Lots within Hogback Haven Subdivision, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, are deemed to covenant and agree to pay to an Association or group of lot owners formed for the purpose of administering said funds, (1) Annual assessments or charges for regular road maintenance within Hogback Haven Subdivision; and (2) special assessments for emergency repairs to said roads within Hogback Haven Subdivision, these assessments to be established by:

1. For annual assessments for regular road maintenance: Each Owner of each lot shall pay an annual assessment fee (to begin at \$150.00 per year in 2001 for each lot owned, and to be prorated for the remainder of the year of the closing of the initial sale of the lot) for maintenance of the road system in Hogback Haven Subdivision. The assessment fee shall be due by January 10th of each year.
2. By a majority vote of all lot owners, special assessments for emergency repairs or upgrades to said road shall be established, with each lot owner responsibility for a pro-rata share of said approved emergency assessment (one share per lot owned).

The annual and special assessments, together with interest and costs of collection including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property or Lot against which each such assessment is made. Each such assessment, together with interest, costs of collection, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for such delinquent assessments shall also pass to his successors in title, provided a claim of lien has been recorded in the Public Records of Fannin County giving notice to all persons that a claim of lien upon the Lot is being asserted, prior to the conveyance of title to the Lot. Said claim of lien shall state the description of the residence, the name of the record Owner thereof, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien have been fully paid. Such claims of lien shall be signed and verified by 1) an officer of the Homeowners' Association (if said Association has been established) or 2) by a representative of a majority of the lot owners in Hogback Haven Subdivision. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien, said satisfaction being executed either 1) by the record individual filing the lien, 2) an officer of the Homeowners' Association (if said Association has been established) or 3) by signatures indicating a majority of all lot owners. Liens for assessment may be foreclosed by suit brought in the name of the Homeowners' Association in like manner as a foreclosure of a mortgage on real property.

Developer shall have no affirmative obligation upon developer for the future upkeep and maintenance of the subdivision roads.

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DURATION AND AMENDMENT

This declaration and the restrictions contained herein shall run with and bind the submitted property for a period of twenty years from and after the date when this declaration is filed for record with the Clerk of the Superior Court of Fannin County, after which time this declaration and the restrictions shall be automatically renewed for successive periods of ten years; provided, however, that after the end of the said twenty year period and during any ten year renewal period (but only during such renewal period), this declaration and the restrictions contained herein may be terminated by an instrument executed by 2/3 of the lot owners and recorded in the Office of the Clerk of the Superior Court of Fannin County, Georgia, or in such other place of recording as may be appropriate at the time of the execution of such instrument. During the period of Declarant's ownership of one lot or more, these items may be amended by Declarant, in his sole judgment and discretion, for clarification, correction, and general improvement of lifestyle and comfort in HOGBACK HAVEN Subdivision.

MISCELLANEOUS

1. Severability - A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.
2. Constructive Notice - Each owner, by his acceptance of a deed or other conveyance of a lot, acknowledges for himself, his heirs, legal representatives, successors and assigns, that he is bound by the provisions of this declaration, including, but not limited to, the easement provisions for all homeowners provided in this document.
3. Binding Effect - This declaration shall be binding upon the undersigned, its heirs, administrators, successors and assigns. Said declaration shall run with the title to the property described above and any subsequent property that is added hereto by amendment.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal as of the day and year first above written.

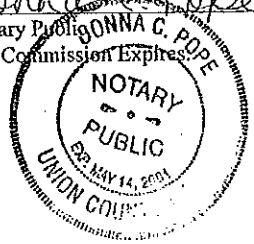
Signed, sealed and delivered in the presence of:

HOGBACK HAVEN DEVELOPMENT CORPORATION

[Handwritten Signature]
Witness

[Handwritten Signature]
BY: Orpheus E. Deaver
ITS: President

SEAL

[Handwritten Signature]
Notary Public DONNA C. POPE
My Commission Expires


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ADMITTED LIMITED LIABILITY PARTNERSHIP OF PROFESSIONAL CORPORATION

GEORGIA, FANNIN COUNTY
CLERK'S OFFICE SUPERIOR COURT
FILED FOR RECORD 3/12/02
AT 12:53 PM REC'D 3/12/02
BOOK 437 PAGE 251-52
CLERK OF SUPERIOR COURT

RETURN RECORDED DOCUMENT TO: (Recording Information)

Little & Drost, L.L.P.
P.O. Box 2670
Blue Ridge, GA 30513
File # 2456

8th District, 1st Section
Land Lot Numbers 231

STATE OF GEORGIA
COUNTY OF FANNIN

**AMENDMENT #2 TO
ROAD EASEMENT AND MAINTENANCE AGREEMENT AND
RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION**

This AMENDMENT #2 TO ROAD EASEMENT AND MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION is made this 12th day of March, 2002, by the undersigned Hogback Haven Development Corporation, by Orpheus E. Deaver as President and Orpheus E. Deaver (hereafter referred to collectively as "Declarant").

WITNESSETH:

WHEREAS, Declarant previously recorded that certain **ROAD EASEMENT AND MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION** (the "Covenants") at Deed Book 378, Pages 136-47, Fannin County Deed records; AND

WHEREAS, said Covenants provided that Declarant could add additional property to said Covenants by Amendment, and modify said Covenants, in its sole judgment and discretion, for clarification, correction, and general improvement of lifestyle and comfort in HOGBACK HAVEN Subdivision;

NOW THEREFORE, Declarant:

- 1. Adds the following property, by amendment, to the submitted property:

All that tract or parcel of land lying and being in Land Lots 202, 230 and 231 of the 8th District, 1st Section of Fannin County, consisting of 77.71 acres, according to a plat of survey prepared by Lane S. Bishop, G.R.L.S. 1575, dated April 26, 2000, said plat of survey being recorded in Plat Hanger C-15, Page 1, Fannin County Deed records. Said plat of survey is incorporated herein by reference thereto for a more complete and accurate metes and bounds description of the above-described property.

Less and Except:

All that tract or parcel of land lying and being in the 8th District and 1st Section of Fannin County, Georgia and being a part of Land Lot No. 202 and 231, containing 12.7 acres of land, more or less, as shown on a plat of survey by Lane S. Bishop, G.R.L.S. # 1575, dated December 1, 2000, and recorded in Plat Hanger C-73, Pages 3-4, in the Office of the Clerk of Superior Court, Fannin County, Georgia. Said plat being incorporated herein and made a part of this deed by reference thereto for a more complete and accurate metes and bounds description of the above-referenced property. The above-described property to be known as Hogback Haven Subdivision, Phase I. [Made subject to **ROAD EASEMENT AND MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION** at Deed Book 378, Pages 136-47, Fannin County Deed records]

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2. Amends said covenants, Restrictive Covenant #2, regarding minimum size of heated living area, in its entirety, to state as follows:

"2. No dwelling shall contain less than 950 square feet of heated living area on the first floor, exclusive of garages, basements, covered walks, open and/or screened porches, patios, terraces, pool areas or other similar areas. Total square footage of any dwelling must be 1600 heated square feet or more, of which 1400 heated square feet must be first floor and above.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal as of the day and year first above written.

Signed, sealed and delivered in the presence of:

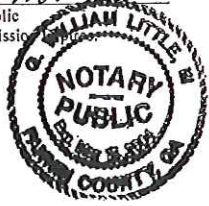
HOGBACK HAVEN DEVELOPMENT CORPORATION

Omna C. Pope
Witness

Orpheus E. Deaver
BY: Orpheus E. Deaver
ITS: President

William Little
Notary Public
My Commission

SEAL



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A LIMITED LIABILITY PARTNERSHIP OF PROFESSIONAL CORPORATION

GEORGIA, FANNIN COUNTY
CLERK'S OFFICE SUPERVISOR OFFICE
FILED FOR RECORD 3/19/02
AT 10:30 AM ATTORNEY 3/19/02
BOOK 438 PAGE 351-52
J. Drost
CLERK OF SUPERVISOR OFFICE

RETURN RECORDED DOCUMENT TO: (Recording Information)
G. William Little, III, P.C.
P.O. Box 2670
Blue Ridge, GA 30513
File # 2456
8th District, 1st Section
Land Lot Numbers 231
2976
STATE OF GEORGIA
COUNTY OF FANNIN

AMENDMENT #1 TO
ROAD EASEMENT AND MAINTENANCE AGREEMENT AND
RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION

This AMENDMENT #1 TO ROAD EASEMENT AND MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION is made this 1st day of November, 2001, by the undersigned Hogback Haven Development Corporation, by Orpheus E. Deaver as President and Orpheus E. Deaver (hereafter referred to collectively as "Declarant").

WITNESSETH:

WHEREAS, Declarant previously recorded that certain ROAD EASEMENT AND MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANTS FOR HOGBACK HAVEN SUBDIVISION (the "Covenants") at Deed Book 378, Pages 136-47, Fannin County Deed records; AND

WHEREAS, said Covenants provided that Declarant could add additional property to said Covenants by Amendment, and modify said Covenants, in his sole judgment and discretion, for clarification, correction, and general improvement of lifestyle and comfort in HOGBACK HAVEN Subdivision;

NOW THEREFORE, Declarant:

- 1. Amends said covenants, under CONTROLLED ACCESS PROVISIONS, in its entirety, to state the following:

Decisions related to security measures, including, but not limited to, access privileges to visitors or service personnel shall be made by the Homeowners' Association. No decision shall apply to Declarant or his designees, who shall have unlimited access until all lots have been transferred from Declarant's ownership.

NOTE: Lot #s 17, 18, 19 and 20 of Hogback Haven shall have the right, by a vote of the owners of 3 of the 4 lots, to make that certain roadway, known as TURKEY RIDGE ROAD a controlled - access, gated roadway, with the right to install a controlled access gate on said roadway at an approximate location near the intersection of Lots 4 and 21 and Turkey Ridge Road. Should said owners choose to make this roadway controlled access and private (being only for the owners, their heirs and assigns of Lots 17, 18, 19 and 20, and for Declarant, his heirs and assigns), the

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owners of Lots 17, 18, 19 and 20 shall be solely responsible, prorata, for all maintenance of the roadway and controlled access gate and system.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal as of the day and year first above written.

Signed, sealed and delivered in the presence of:

HOGBACK HAVEN DEVELOPMENT CORPORATION

Anna C. Pope
Witness

Orpheus E. Deaver
BY: Orpheus E. Deaver
ITS: President

William Little
Notary Public
My Commission Expires:



SEAL

Anna C. Pope
Witness

Orpheus E. Deaver
BY: Orpheus E. Deaver

William Little
Notary Public
My Commission Expires:



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