



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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**RESTRICTIVE COVENANTS,
ROAD EASEMENTS and MAINTENANCE AGREEMENT
FOR
NATURE'S COURT YARD
PHASE I
and
DECLARATION OF HOMEOWNERS' ASSOCIATION**

State of Georgia
County of Fannin

These Restrictive Covenants, Road Easement and Maintenance Agreement for **NATURE'S COURT YARD PHASE I** and **DECLARATION OF HOMEOWNERS' ASSOCIATION**, is made this 15th day of April, 2005, by the undersigned **MOUNTAIN TRACKS DEVELOPING AND BUILDING, LLC** a Georgia Limited Liability Company (hereafter collectively referred to as "Owner/Developer").

WITNESSETH:

That **MOUNTAIN TRACKS DEVELOPING AND BUILDING, LLC** is the owner and developer of property known as **NATURE'S COURT YARD PHASE I**, which is more particularly described as follows:

All that tract or parcel of land lying and being in Land Lots 45, 46, 63 & 64 of the 8th District, and 1st Section of Fannin County, Georgia and being more particularly described as **containing 99.13 Acres of land, more or less** as shown on plat of survey for **NATURE'S COURT YARD PHASE I**, dated the 15th day of April, 2005 prepared by Lane S. Bishop & Associates, G.R.L.S. No. 2536 recorded in Plat Hanger **D-210**, Page 1-7, Fannin County Records. Said recorded plat is hereby made a part of this deed by reference thereto for a more complete description of the above described property.

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

The above described property is a portion of the same property conveyed by Warranty Deed dated the 15th day of April, 2004 from G & H Farms, Inc. A domestic Profit Company of the State of Georgia in favor of Mountain Tracks Developing & Building, LLC A Georgia Limited Liability Company recorded in Deed Book **570**, Page **114**, Fannin County Records.

WHEREAS, it is to the interest, benefit and advantage of the owners and of each and every person who shall hereafter purchase any lot of said property, that certain protective covenants governing and regulating the use and occupancy of the same be established, set forth and declared.

NOW, THEREFORE, for and in consideration of the premises and of the benefits to be derived by owners, their successors and assigns, and each and every subsequent owner of any lot of said property, the Owners do hereby set up, establish, promulgate, and declare the following protective covenants to apply to all lots subdivided with the property. These protective covenants shall become effective immediately and shall be covenants running with the land and shall be binding on all parties, person or entities owning a lot or lots in Nature's Court Yard Phase I, until February, 2022 at which time said covenants may be extended or terminated in whole or in part as hereinafter provided. Every grantee of Declaration, by acceptance of deed or other conveyance of such interest, whether or not it shall be so expressed in any otherwise consent in writing shall take subject to this Declaration and to the terms and conditions hereof and shall be deemed to have assented to said terms and conditions.

1. The protective covenants and restrictions set forth herein shall apply only to the above-described property.
2. All lots in the subdivision shall be known and described as residential lots and shall be used for residential purposes only. No structure shall be erected, altered, placed or permitted to remain on any lot other than one detached, single family dwelling and other structures, customarily incidental to residential use. No lot shall be

used for a church, school, kindergarten, beauty shop, hospital, boarding house or any business or commercial purpose.

3. All building construction is to be completed within **twelve (12) months** from the starting date of construction.
4. No mobile home or modular home shall be placed or erected on any lot within the above described subdivision.
5. No mobile home, trailer, tent, shack, garage, or other outbuilding shall be placed or erected on any lot in the subdivision. Structures customarily incidental to residential use are allowed so long as such structures are not unsightly or do not adversely affect the value of other lots in the subdivision, and no building or shed will be located in any front yard.
6. All lots will be restricted to permanent housing with a minimum of **1400 square feet** of enclosed, heated living space. The square footage mentioned above is exclusive of areas contained in open porches, carports, garages, and basements and refers to heated living area. The following restrictions also apply:
 - a) All Residential structures are to be constructed in accordance with County Standard Residential Specifications.
 - b) No building shall be located near to the front line or near to the side street line than the building set back line shown on the recorded plat of the property. No building on any lot shall be located nearer than fifteen (15) feet from any inside lot line and thirty (30) feet from any back property line.
 - c) Easement for installation and maintenance for utilities and drainage facilities are reserved as shown on the recorded plan or over the rear (10) feet to each lot. Drainage flow shall not be obstructed nor be diverted from drainage or utility easements as designated above or on the recored plat, except, as the undersigned may deem necessary for the development of the subdivision.
7. All machinery, inoperable automobiles, boats, trailers, recreational vehicles or automobiles in storage will be located in rear yard. No junk cars or junk vehicles of any kind shall be allowed to remain on the street in the subdivision. No school buses, commercial or work vehicles shall be parked in front yards or on the streets.
8. The visible exterior of any concrete or concrete blocks shall have an exterior finish of rock , brick or stucco.
9. No animals, livestock, poultry, birds of any kind shall be raised, bred or kept on any lot in this subdivision except for dogs, cats, and other household pets may be kept provided they are not kept, bred or maintained for commercial purposes. It is hereby stated that horses or ponies of any kind shall be permitted upon any lot within the above stated subdivison that consist of 3 acres of land or more only, with the exception that they are to be well maintained within proper containment and shall be kept in satisfactory condition at all times. The allowance of horses or ponies shall be for personal enjoyment only and shall not be kept for commercial breeding. This stipulation shall also apply should an owner purchase more than 1 lot adjoining, making their total acreage owed to be over 3 acres. Said lots shall be adjoining lots only for the total combined acres. Any property to be cleared for pasture shall have a wooded or natural border of trees complete around said pasture to be mimun of 4 foot to maintain privicay for all lots owners within said subdivision.
10. No lot shall be re-subdivided, nor shall more than one house be erected on any one lot. The provision that no lot shall be subdivided shall not be interpreted to prevent the undersigned from making modifications in the recorded subdivision plat as to lot sizes or lot lines.
11. No white roof will be allowed on any house. Only rustic and natural setting to blend with nature.
12. All fences shall be of a natural setting and must meet prior approved by Developer. No chain link or wire fencing shall be permitted.
13. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers in the rear of the lot and behind the residence.
14. No noxious or offensive activity shall be carried on any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
15. No sign of any kind shall be erected or maintained on any lot with the exception of a professionally lettered sign of a builder, realtor, owner or delarant advertising such lot, the residence on such lot for sale or rent. The sign shall not be more than five feet square. A builder or the undersigned may use additional signs as the undersigned deem reasonable or necessary to promote the sale of lots or homes within said subdivision. No sign shall be attached to any tree or shrubbery.
16. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.
17. No old, new, complete or used home may be moved onto any lot.

ROAD MAINTENANCE AND ASSESSMENTS

Personal Obligation of Assessments: Claim of Lien: All purchasers of Lots within said 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 said subdivision; and (2) special assessments for emergency repairs to said roads within said Subdivision, these assessments to be established by:

1. There shall be a one (1) time impact fee of **\$2,000.00 (per lot owned)** for paving of subdivision roads located within said Subdivision. Said impact fee shall be a one time fee to be collected at closing and deposited into an interest bearing account for the purpose of paving said subdivision roads and shall not be withdrawn until such time. Owner/Developer retains the sole right to waive said impact fee at any time it may deem necessary.
2. Owner/Developer hereby states that the paving of the subdivision roads shall not begin until **80%** of all the lots within said entire Subdivision (**containing a total of 150.11 Acres**) have been sold, after which, there shall be formed a homeowner's association which shall be solely responsible for all road maintenance, landscaping, and upkeep of all common property. After which time a Homeowner's Association is formed Owner/Developer shall no longer be held liable or responsible in any way for road maintenance or upkeep, landscaping, or upkeep of any common area property.
3. A yearly fee for annual assessments for road maintenance, common grounds maintenance, and landscape maintenance shall apply as follows: Each lot owner(s) shall be required to pay **\$300.00** per year for said maintenance (one share per lot owned). Said assessment shall be due at closing (Pro-ration) and shall become due each year thereafter on **January 1st** with a 15 day grace period. Any lot owner that does not pay said yearly assessment before the end of the grace period shall be subject to a penalty to be determined and assessed by Owner/Developer or by the Home Owners Association which ever may be deemed in charge of said annual assessment.
4. 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).
5. At the beginning of construction of a residence each lot owner shall post a **\$2,000.00 bond** to be held in escrow by Owner/Developer for any damages or necessary repairs that may be deemed necessary to said subdivision roads caused by them or any hired contractor, worker or supplies, etc in connection with said construction. After completed construction by lot owner, then Owner/Developer shall assess damage or repairs, if any, and shall give a refund of amount needed back to the lot owner.

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 **Nature's Court Yard Phase I**. 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. Assessments shall not apply to the Developer and/or Owner/Developer.

DECLARATION OF HOMEOWNERS' ASSOCIATION FOR NATURE'S COURT YARD PHASE I

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 **NATURE'S COURT YARD** Subdivision Homeowners' Association, formed by the Declarant.
- (b) "Properties" shall mean and refer to all such properties delineated as **NATURE'S COURT YARD Phase I** along and with any and all additional adjoining property, areas, phases or land in which Declarant shall deem and acknowledge as the "Submitted Property."
- (c) "Development" shall mean the entire **NATURE'S COURT YARD**, to include Phase 1 along with any and all additional phases.

- (d) "Common Properties" shall mean and refer to the portions of the Properties described as "common area(s)," "common drives(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 **NATURE'S COURT YARD PHASE I** as now or hereafter recorded on the public records of Fannin County, Georgia.
- (f) "Declarant" shall mean and refer to **MOUNTAIN TRACKS DEVELOPING AND BUILDING, LLC**, by J. W. Stephens as its Member/Manager, 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.
- (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 person 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 operations 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, conditions

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.

The Homeowner's Association shall maintain and repair the road system within the subdivision:

- 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 regulation 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 provision 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 regularities promulgated by the Homeowners' Association, and to enforce, by mandatory injunction or otherwise, all of the provision thereof.
- c. Easements and Rights-of-Way To grant and convey to any third party easement 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 employees, 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 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 Contacts 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.
- l. 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.
- m. 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 assign's, 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 non-exclusive easement in perpetuity for ingress and over and across the streets, road 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, 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 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, 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 the 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, 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 and 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 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 the 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 right-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 other public conveniences or development utilities; (2) the right to cut any trees, bushes or shrubbery, make any grading 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 and orderly and economic manner the development of all present and future phases of NATURE'S COURT YARD; provided, however, that said reservation and right shall not be considered and 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 the Declaration by Declarant to the Homeowners' Association upon the latter of 10 years from the date 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 the ownership of lots in the Developments.

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 an 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 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 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;

Garbage collection and trash and rubbish removal; but only when and to the extent specifically authorized by said Homeowners' Association;

Providing police protection, night watchmen, guard and gate services, but only when and to the extent specifically authorized by said Homeowners' Association;

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

C. Annual Assessments and Initial Assessments A yearly fee for annual assessments for road maintenance, common grounds maintenance, and landscape maintenance shall apply as follows: Each lot owner(s) shall be required to pay **\$300.00** per year for said maintenance (one share per lot owned). Said assessment shall be due at closing (Pro-ration) and shall become due each year thereafter on **January 1st** with a 15 day grace period. Any lot owner that does not pay said yearly assessment before the end of the grace period shall be subject to a penalty to be determined and assessed by Owner/Developer or by the Home Owners Association which ever may be deemed in charge of said annual assessment.

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 assessments 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 of 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 and officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of and 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 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 an collection of the assessment, including a reasonable attorney's fee 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.

RESERVATION BY OWNER/DEVELOPER OF ROAD EASEMENT

The Owner/Developer hereby reserves unto himself, its successors and/or assigns, all necessary licenses, rights, privileges and easements over, upon, under and across all property, 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 subdivision utilities; (2) the right to cut any trees, bushes or shrubbery, make any gratings 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; (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 said subdivision; provided, however, that said reservation and right shall not be considered an obligation of the owner/developer to provide or maintain any such utility, development, or service.

Owner/Developer also reserves the right to connect with and make use of 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 property. Finally, the Owner/Developer reserves the right to establish and continue to use any sales offices, signs, or parking spaces located on the property, in its effort to market the development. The easements and rights-of-way herein reserved shall continue in existence in favor of the Owner/Developer until conveyance of all lots occurred and Owner/Developer filed a written EXTINGUISHMENT OF EASEMENT document with the clerk of Superior Court, Fannin County.

ROAD EASEMENT FOR NATURE'S COURT YARD

It is the express intent of owners/developer to grant an easement along the road system within the boundaries of the above-mentioned survey for ingress and egress to each Purchaser, their heirs, and assigns, of lots or property within **Nature's Court Yard PHASE I**. It is the express intent of owner/developer to reserve for its self, its heirs, and/or assigns, an easement for ingress and egress along same roads. Said easements shall not be a mere easement but a right running with title to the above described lands.

The easement is granted notwithstanding any error or omission in any individual conveyance to a purchaser of a lot or property, by the Owner/Developer, which might fail to expressly grant or reserve such an easement.

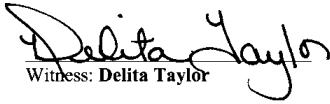
MISCELLANEOUS

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 provision of this declaration, including, but not limited to, the easement provision 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.
4. A one time Home Owners Association Dues Fee for **NATURE'S COURT YARD all phases** in the amount of **\$300.00 per Lot** shall be due at time of initial purchase. The funds produced by such initiation fee shall be for working capital of the Homeowners' Association. The initiation fee shall be paid directly to owner/developer Mountain Tracks Developing & Building, LLC or directly to the Homeowner's Association after which one has been activated, all association dues fees shall be held in accordance with the above provisions.

5. Declarant shall in no way be held liable or subject to any type of lawsuit, of any type, from anyone in regards or connection to said subdivision once all Lots within said SUBDIVISION have been conveyed by them.
6. Declarant hereby states that at time of recordation of this agreement they have complied with all Fannin County Land Development laws and regulations for development of said subdivision. And should any new purchaser of a lot within said subdivision not comply with said County laws and regulations for any reason, Declarant shall in no way be held responsible or liable, and shall be fully released of all liability thereof.

IN WITNESS WHEREOF, **MOUNTAIN TRACKS DEVELOPING & BUILDING, LLC** has caused these Restrictive Covenants and Road Easement and Maintenance Agreement for **NATURE'S COURT YARD PHASE I** and **DECLARATION OF HOMEOWNERS' ASSOCIATION** to be executed the day and year first written above.

Signed, sealed and delivered in the Presence of:


 Witness: Delita Taylor

MOUNTAIN TRACKS DEVELOPING AND BUILDING, LLC
 (a Georgia Limited Liability Company)

 (seal)
J.W. STEPHENS Member/Manager


 Notary Public
 My Commission Expires



 (seal)
JAMES D. STEPHENS - Member/Manager