

DECLARATION OF COVENANTS AND RESTRICTIONS



C L O U D L A N D

A L L O O K O U T M O U N T A I N

LOOKOUT MOUNTAIN

DADE COUNTY

DADE COUNTY, GEORGIA

I hereby certify that this instrument was filed for record in the clerk's office. Superior court of said county on the 3 day of Sept 1999 1 o'clock P m. and recorded in book no. 243 on page 305-340 this 3 day of Sept 1999
Sarah D. Moore
Clerk Superior Court Dade County, Georgia

GEORGIA

FILED IN SUPERIOR COURT CLERK'S OFFICE-DADE COUNTY, GEORGIA

1:00 ^{AM} ~~PM~~ Sept 3 19 99
BY Martha Chamber
CLERK OR DEPUTY

Prepared by Highland Ventures, LLC
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Rising Fawn, Georgia 30738

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DECLARATION OF COVENANTS AND RESTRICTIONS

CLOUDLAND AT LOOKOUT MOUNTAIN

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Covenants and Restrictions made and entered into this 3rd day of September, 1999, by HIGHLAND VENTURES, LLC, hereinafter referred to as Developer;

W I T N E S S E T H:

WHEREAS, Developer is the Developer of the real property described in Article I of this Declaration and desires to create thereon a residential community with common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said other common facilities; and, to this end, desires to subject the real property described in Article I together with such additions as may hereinafter be made to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated under the laws of the State of Georgia a non-profit corporation, CLOUDLAND AT LOOKOUT MOUNTAIN HOMEOWNERS ASSOCIATION, INC. for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that the real property described in Article I is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Architectural Control Committee" shall mean and refer to HIGHLAND VENTURES, LLC or such other individuals as Developer may appoint, until all Lots in CLOUDLAND AT LOOKOUT MOUNTAIN shall have been fully developed and permanent improvements constructed thereon and sold to permanent residents; at which time such term shall mean and refer to those persons selected annually by the Board in compliance with the Declaration of the Association to serve as members of said committee.

Section 2. "Association" shall mean and refer to CLOUDLAND AT LOOKOUT MOUNTAIN HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 13. "Structure" shall mean and refer to: (i) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop, or cage, covered or uncovered patio, swimming pool, tennis court, boat, boat dock, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, window dressing, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot; (ii) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (iii) any change in grade at any point on a Lot of more than twelve (12) inches, whether or not subsection (ii) of this Section 13 applies to such change.

ARTICLE II

ARCHITECTURAL CONTROL COMMITTEE (ACC)

Section 1. Purpose, Powers and Duties of the Architectural Control Committee. The purpose of the Architectural Control Committee, hereinafter referred to as "ACC", is to assure that the installation, construction or alteration of any Structure on any Lot (i) is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the development of the Property; and (ii) is appropriately located with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

Section 2. Developer's Obligation. The Developer shall abide by the Declaration of Covenants and Restrictions and any amendments thereto but not withstanding anything stated herein to the contrary, the Developer shall be exempt from any requirements, directives, or orders set forth by the Board of Directors or any committee appointed by the Board of Directors including, but not limited to, the ACC.

Section 3. Construction Bond. On all structures, the Owner shall submit to the Architectural Control Committee a Construction Bond of Three thousand dollars (\$3,000.00) in cash per unit to be held in escrow by the Architectural Control Committee until the improvements are complete and the Architectural Control Committee performs its Final Inspection. The Developer shall be exempt from this requirement. The Construction Bond shall be used to offset any costs incurred by the Association or the Architectural Control Committee as a result of or to:

- (a) Repair damage to any roadways or streets or any property caused by the builder or Owner or their subcontractors, suppliers and representatives during construction;

Section 6. Approval and Disapproval of Plans and Specifications.

(a) The Architectural Control Committee shall have the right to approve or disapprove any plans and specifications submitted to it in its sole and uncontrolled discretion, which approval or disapproval may be based upon any grounds, including purely aesthetic considerations which shall be deemed sufficient.

(b) Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the Architectural Control Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval of any plans and specifications for use in connection with any Lot or Structure shall not be deemed a waiver of the Architectural Control Committee's right, in its sole discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with other Lots or Structures. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

(c) Neither Developer, nor any member of the Architectural Control Committee shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Control Committee, for any structural defects in any work done according to such plans and specifications approved by the Architectural Control Committee. Further, approval of plans and specifications by the Architectural Control Committee shall not be deemed to represent or warrant to any Person the quality, function or operation of the Structure or of any construction, workmanship, engineering, materials or equipment. Neither Developer, nor any member of the Architectural Control Committee shall be liable in damages or in any other respect to anyone submitting plans or specifications for approval under this Article, or to any Owner, or to any other Person having an interest in any of the Property by reason of mistake in judgment, negligence, misfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. By submission of such plans and specifications to the Architectural Control Committee, every Owner of any Lot releases and agrees to hold harmless and to defend Developer, and any member of the Architectural Control Committee from any such alleged liability, claim and/or damage.

Section 7. Obligation to Act. The Architectural Control Committee shall take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt thereof. Approval by the Architectural Control Committee, if granted, together with any conditions imposed by the Architectural Control Committee, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by the Architectural Control Committee to take action within thirty (30) days of the receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

- (e) Ensuring that all driveways on the construction site are sufficiently graveled, a portable toilet is available and used by the construction workers and any mud or any debris caused by the construction are removed from the adjoining roadways by the end of every workday. Further, silt fences shall be installed as required to keep silt, mud, and other debris off of the street and adjoining lots.

Section 11. Government Regulations. Nothing contained herein abrogates, modifies, or changes the applicability of any ordinances, statutes, codes, rules and regulations of Dade County, Georgia or other governmental units as applicable and the necessity of obtaining a building permit, inspection or otherwise complying with applicable provisions of governmental codes, statutes, ordinances, rules and regulations.

ARTICLE III

Board of Directors

Section 1. Composition. The affairs of the Association shall be governed by the Board. The initial Board shall be composed of five (5) persons. The directors shall be Owners of Lots or spouses of such Owners; provided, however, that no Owner and his or her spouse may serve on the Board at the same time. Notwithstanding the above, so long as there shall be a Class B member of the Association, the directors need not be Owners of Lots. The precise number of directors shall be fixed from time to time by resolution of the Board.

Section 2. Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of three (3) members appointed by the President to serve from the close of one annual meeting to the close of the succeeding annual meeting. Such appointment shall be announced at the annual meeting. The nominating committee may nominate any number of qualified individuals, but no less than the number of directors to be elected. The nominations shall be made at least twenty-one (21) days prior to the annual meeting and a brief statement about the qualifications of each individual so nominated shall be included with the notice of the annual meeting. Nominations shall also be allowed from the floor at the meeting. Failure to comply with the provision hereof shall in no way invalidate the election of directors so nominated.

Section 3. Elections and Annual Meeting. The annual meeting shall be held on the first Tuesday in October. Directors to be elected by the members shall be elected by a majority vote at the annual meeting from those nominated. A quorum must be present. For the purpose of electing a Board of Directors, a quorum shall be deemed present when fifty percent (50%) of all votes are present in person or by proxy. If the required quorum is not present, an adjourned annual meeting shall be called subject to the same notice requirements as set forth for the annual meeting, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4. Term of Office. The directors shall be elected as provided in Section 3 of this Article. Each director, except in case of death, resignation, retirement, disqualification or removal, shall serve until the next succeeding annual meeting and thereafter until his successor shall have been elected and qualified.

- (b) to administer the affairs of the Association;
- (c) to engage the services of an agent (hereinafter sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Common Area or any part thereof for all of the Owners, upon such terms and for such compensation as the Board may approve, including a Managing Agent which is affiliated with one or more directors, or the Developer, or both;
- (d) to administer, manage and operate the Common Area and recreational facilities located thereon, and to formulate policies therefor;
- (e) to adopt rules and regulations, with written notice thereof to all Owners, governing the details of the administration, management, operation and use of the Common Area and any recreational facilities located thereon, and to amend such rules and regulations from time to time;
- (f) to provide for the operation, care, upkeep, maintenance, repair, replacement and improvement of the Common Area and any recreational facilities located thereon and payments therefor, and to approve payment vouchers or to delegate such approval to the officers of the Association or the Managing Agent;
- (g) to have access to each Lot from time to time as may be necessary for the maintenance and/or repair of the Common Area or equipment located within the Common Area;
- (h) to obtain adequate and appropriate kinds of insurance to protect the Association and/or members of the Board of Directors or members of committees appointed by the Board of Directors including ACC and other insurance as provided by Article XI of the Declaration;
- (i) to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Area and to delegate any such powers to a Managing Agent (and any employees or agents of a Managing Agent);
- (j) to appoint committees and to delegate to such committees the Board's authority to carry out certain duties of the Board;
- (k) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;
- (l) to estimate the amount of, prepare, adopt and distribute the budget for the Association not less frequently than annually, to provide the manner of assessing, levying on and collecting from the Owners the annual and special assessments, and to levy fines against one or more occupants in accordance with the Declaration;
- (m) to keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Common Area;

ARTICLE IV

Officers

Section 1. Designation. At each regular or adjourned annual meeting of the Board after the Owners elect the Board, the directors present at said meeting shall elect the following officers of the Association by a majority vote:

- (a) a President who shall be a director and who shall preside over the meetings of the Board and of the Owners, and who shall be the chief executive officers of the Association;
- (b) a Secretary, who shall keep the minutes of all meetings of the Board and of the lot owners and shall be designated as the officer to mail and receive all notices served by or upon the Board or the Association and execute amendments to the Declaration, and shall, in general, perform all the duties incidental to the office of Secretary, and may be a representative of the Managing Agent;
- (c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; provided, however, that the duties of the Treasurer may be performed by an employee or independent contractor retained by the Board; and
- (d) such additional officers as the Board shall see fit to elect. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. Term of Office. Each officer shall hold office for the term of one year and until his successor shall have been appointed or elected and qualified.

Section 4. Vacancies. Vacancies in any office shall be filled by the Board by a majority vote at a special meeting of said Board. Any officer so elected by the Board to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.

Section 5. Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the Owners at a meeting duly called for that purpose.

- (a) the right of the Association to adopt and publish rules and regulations governing the use of the Common Area.
- (b) the right of the Association to suspend an Owner's voting rights and rights to use any recreational facilities within the Common Area for any period during which any assessment of the Association against said Owner's Lot remains unpaid.
- (c) the right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon and, upon the assent of two-thirds of the Class A members and the Class B member, if any, to give as security a mortgage conveying all or any portion of the Common Area. The lien and encumbrance of any such mortgage, however, shall be subject and subordinate to all rights, interests, easements and privileges herein reserved or established for the benefit of Developer, any Owner, or the holder of any mortgage, irrespective of when executed, given by Developer or any Owner.
- (d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded.
- (e) the easements reserved in Article IX of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with this Declaration, his right of use and enjoyment in and to the Common Area and the improvements thereon, if any, to the members of his family, his tenants, guests and invitees, subject to such regulation as may be established from time to time by the Association.

Section 3. Title to Common Area. Developer may from time to time convey to the Association, at no expense to the Association, real and personal property for the common use and enjoyment of the Owners. Developer may also from time to time convey ownership of the Common Area along and about Hampton Way, Stewart Lane, Fortrose Trace, Shivas Crest, and walking trail easements designated on the Plat to the Association, or may convey a joint ownership of the Common Area along and about Hampton Way with future owners who gain access to State Highway 189 via Hampton Way or with future homeowners associations of future developments whose members gain access to State Highway 189 via Hampton Way. The Association hereby covenants and agrees to accept from Developer all such conveyances of real and personal property. Notwithstanding any legal presumption to the contrary, the fee simple title to such real and personal property designated as Common Area or for public use, together with all rights therein, shall be reserved to Developer until such time as the real and/or personal property is conveyed to the Association or to any municipality or other governmental body, agency or authority.

Section 4. No Partition. There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition.

Section 3. Determination of Annual Assessments. If the Association incurs ongoing Common Expenses, it shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses of operating the Association for the coming year, such budget shall include a capital contribution or reserve account in accordance with the capital needs of the Association. The budget and the proposed annual assessments to be levied against each Lot shall be delivered to each Owner no later than ten (10) days prior to such annual meeting. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either (i) Developer, so long as there is a Class B member; or (ii) a majority of the votes cast in person or by proxy at such meeting. In the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then until a budget has been determined as provided herein, the budget and annual assessments in effect for the then current year shall continue for the succeeding year. If any budget at any time proves inadequate for any reason, the Board may call a meeting of the Association for the approval of a special assessment. In preparing the annual budget, the Board shall specifically designate a separate category for expenses, as outlined in Section 2 of this Article, associated with the Common Area along Hampton Way. The funds necessary to maintain the Common Area along Hampton Way, per the description in Section 2 of this Article, shall be tabulated separately in order to accurately assess the pro-rata share of these expenses which should equitably be shared and shall be equitably shared by any future owners who gain access to State Highway 189 via Hampton Way or with future homeowners associations of future developments whose members gain access to State Highway 189 via Hampton Way.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least two-thirds (2/3) of the Class A members and the Class B member, if any, voting in person or by proxy at a meeting duly called for such purpose. Special assessments may also be levied by the Association if for any reason the annual assessments prove inadequate to defray the expenses of the Association in fulfilling its duties and obligations hereunder, subject to the consent of the members as set forth above.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessments. Annual and special assessments must be fixed at a uniform rate for all Lots except those Lots owned by the Developer and will be collected on a semi-annual basis.

ARTICLE VIII
Maintenance

Section 1. Association's Responsibility. Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Area and improvements thereon, if any. The Association's responsibility with respect to the Common Area shall be deemed to include the maintenance, repair and replacement of (i) all roads, walking trails, lights, driveways, walks, parking areas and buildings and other improvements, if any, situated within the Common Area; (ii) such utility lines, pipes, plumbing, wires, conduits and systems which are a part of the Common Area; and (iii) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area. With respect to the portion of the Common Area along and about Hampton Way, these responsibilities may be shared with future owners who gain access to State Highway 189 via Hampton Way or with future homeowners associations of future developments whose members gain access to State Highway 189 via Hampton Way.

Section 2. Owner's Responsibilities. Each Owner of a Lot, whether vacant or occupied, shall keep and maintain his Lot and the exterior of any and all improvements located thereon in a neat, attractive and safe condition. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing and care for roofs, gutters, down spouts, building surfaces, trees, shrubs, grass, walks and other exterior improvements. Should any Owner of a Lot fail to maintain his Lot or the improvements thereon as set forth hereinabove, the Architectural Control Committee, its agents and representatives, may, after thirty (30) days written notice to the Owner of such Lot, enter upon his Lot for the purpose of removing garbage or trash, or for performing such exterior maintenance as the Architectural Control Committee, in the exercise of its sole discretion, deems necessary or advisable. Such Owner shall be personally liable to the Architectural Control Committee and the Association for the direct and indirect cost of such maintenance, which costs shall be added to and become part of the assessment to which such Owner and his Lot are subject. Although notice given as herein provided shall be sufficient to give the Architectural Control Committee, its agents and representatives, the right to enter upon such Lot and perform such maintenance, entry for such purpose shall be only between the hours of 9:00 a.m. and 5:00 p.m. on any day except Sunday. The provisions hereof shall not be construed, however, as an obligation on the part of the Architectural Control Committee to provide garbage or trash removal service, or to perform such exterior maintenance.

Section 3. Easements for Association. There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association, to enter upon the Common Area, Lots, and walking-trail easements shown on the Plat to perform their respective duties, including but not limited to any repair, maintenance, installation, or replacement of any lighting fixtures, lighting structures, guard rails, drainage structures, wading trails, landscaping or other amenity, infrastructure, or safety features that may be installed by the Developer or by the Association either within the Common Area or upon any Lot.

Section 4. Easements for Owners. Developer hereby grants and conveys unto the Association and the Owners, and their successors, heirs and assigns, a perpetual, non-exclusive easement for purposes of vehicular and pedestrian ingress and egress over and across those joint permanent access easements shown and designated as Hampton Way, Fortrose Trace, Shivas Crest, and Stewart Lane on the recorded Final Subdivision Plat of CLOUDLAND AT LOOKOUT MOUNTAIN. Additionally, Developer hereby grants and conveys unto the Association and the Owners, and their successors, heirs and assigns, a perpetual, non-exclusive easement for pedestrian ingress and egress over and across the walking trails delineated on the Plat.

Section 5. Easements for Future Owners. Any owner(s) of land sold by the Developer who may gain regular access to State Highway 189 via Hampton Way shall be granted a perpetual, non-exclusive easement for purposes of vehicular and pedestrian ingress and egress over and across the joint permanent access easement designated as Hampton Way on the recorded Final Subdivision Plat of CLOUDLAND AT LOOKOUT MOUNTAIN. With respect to the portion of the Common Area along and about Hampton Way, the easements granted in Section 3 of this Article shall also be granted to any future homeowners associations of future developments whose members gain access to State Highway 189 via Hampton Way.

ARTICLE X

General Covenants and Restrictions

The following covenants and restrictions shall apply to all Lots and to all Structures erected or placed thereon:

Section 1. Residential Use. All Lots shall be restricted exclusively to single-family residential use. No Lot, or any portion thereof, shall at any time be used for any commercial, business or professional purpose; provided, however, that nothing herein shall be construed to prohibit or prevent Developer or any builder of residences in CLOUDLAND AT LOOKOUT MOUNTAIN from using any Lot owned by Developer or such builder for the purpose of carrying on business related to the development, improvement and sale of Lots in CLOUDLAND AT LOOKOUT MOUNTAIN.

Section 2. Common Area. The Common Area shall be used only by the Owners and their agents, servants, tenants, family members, invitees and licensees for access, ingress to and egress from their respective Lots and for such other purposes as may be authorized by the Association.

- (iii) a sign designating the number of the Lot.
- (iv) a "For Sale" sign to be no larger than four square feet in area for the sale of the property by the Developer, builder, or Owner.; and
- (v) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the Architectural Control Committee.

(b) Following the consummation of the sale of any Lot, the "For Sale" sign and the builder's sign located thereon, if any, shall be removed immediately. "Sold" signs no larger than four square feet may be posted on the Lot after the "For Sale" sign is removed and until the home is occupied by the new Owner.

Section 8. Setbacks. In approving plans and specifications for any proposed Structure, the Architectural Control Committee may establish setback requirements for the location of such Structures which are more restrictive than those established by the Plat. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks. Additional building setbacks may be required as they may relate to views from adjacent lots. Notwithstanding the foregoing, the ACC may grant setback variances when, in its' sole discretion, such variances are warranted.

Section 9. Fences and Walls. Fences or walls may be permitted if approved by the Architectural Control Committee. No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the Architectural Control Committee of plans and specifications for such fences and walls. Where a fence or wall is deemed to be unnecessary, unsightly, or detracting, a landscape screen in lieu of a fence or wall shall be used. No fence or wall over 6 feet in height shall be permitted. No fence shall extend forward of the rear corners of the home unless otherwise approved by the Architectural Control Committee. Chain-link fences are not allowed unless used as a support for a vegetated screen or "living fence".

Section 10. Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the prior written approval of the Architectural Control Committee of plans and specifications for such roads and driveways. Any driveway or roadway which extends into or across the drainage ways or ditches within the joint permanent access easement shall have adequate drainage structures and culverts to ensure that storm water flows freely beneath the driveway or roadway and in no case is impounded or allowed to encroach onto the streets.

Section 11. Antenna. No antenna, satellite dish or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on the exterior of any Structure without the prior written approval of the Architectural Control Committee. In no event shall free-standing transmission or receiving towers be permitted.

Section 12. Clotheslines. No outside clothesline shall be placed on any Lot.

- (d) Only one mailbox shall be located on any Lot. All mailboxes shall be of a common design and shall include only the surname and house number, and shall be located as prescribed by the United States Postal Service. The mailbox and post shall be of a design furnished by the Architectural Control Committee.
- (e) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a dwelling or accessory structure on such Lot, nor shall any such building materials or devices be stored on any Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.
- (f) No exposed, above ground tanks for the storage of fuel, sewage, or water or any other substance shall be located on any Lot. Any such tanks shall be concealed by screening material identical to that of the dwelling or by adequate landscaping as approved by the ACC.
- (g) Adequate off-street parking shall be provided for each Lot.
- (h) All garage doors must be coordinated with the dwelling to which it is appurtenant. Garage doors shall be kept in working order and shall be kept closed when not in use. Garage doors shall not face the same street as the front door.
- (i) No window air conditioning unit may be located in any part of any dwelling or accessory structure. All exterior compressor units shall be ground mounted and screened by a wall of material identical with that of the dwelling or by adequate landscaping as approved by the ACC.
- (j) Any screen porch which is a part of any dwelling or accessory structure must have a dark color screen, and no bright color silver finish screens may be used.
- (k) No plumbing vent or heating vent shall be placed on the front side of any roof of any dwelling or accessory structure, and any such vent shall be painted the same color as the roof on which it is placed.
- (l) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any street, street lights or street signs resulting from construction on such Lot. Repairs of such damage must be made as soon as reasonably possible but in no event not more than thirty (30) days after completion of such construction.

- (r) Carports. Tastefully designed and constructed carports shall be permitted on a case-by-case basis as approved by the Architectural Control Committee.

Section 17. Animals. No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. All pets shall be kept on the Lot except when being walked with a leash. Any Structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot in such a manner so as to be concealed from view by walls of the same material and color as the dwelling to which it is appurtenant or by an opaque landscaping screen as approved by the ACC.

Section 18. Water Supply. No individual water supply system shall be permitted on any Lot without the prior written approval of the Architectural Control Committee. If such approval is given, such system must be located, constructed and equipped in accordance with the requirements, standards and recommendations of federal, state and local public health authorities, and all necessary approvals of such system as installed shall be obtained from such authorities at the sole cost and expense of the Owner of the Lot to be served by such system.

Section 19. Trees and Shrubs. No trees measuring ten (10) inches or more in diameter at a point two (2) feet above ground level, no flowering trees or shrubs, nor any evergreens on any Lot may be removed without the prior approval of the Architectural Control Committee unless located within thirty(30) feet of the approved site for a dwelling or within ten (10) feet of approved driveways or walkways. Excepted herefrom shall be damaged or dead trees and trees which must be removed due to an emergency.

Section 20. Building Construction Standards.

- (a) Exterior Materials. Finish building materials shall be applied consistently to all sides of the exterior of the buildings. Exterior materials shall be stone, masonry stucco, horizontal wood siding, wood shingles, board and batten wood siding, logs, or other materials which simulate these natural materials as approved by the Architectural Control Committee.
- (b) Exterior Colors. Finish colors shall be applied consistently to all sides of the buildings. Color selections shall be harmonious with each other and with natural materials, and shall be compatible with colors of the natural surrounding and other adjacent property. All exterior colors shall be a natural earth tone and blend with the natural surroundings.
- (c) Exterior Trim and Decoration. Exterior window and door trim and similar decorations shall all be of the same color and materials, unless otherwise approved, and shall be either of the same material as exterior walls or directly compatible. Facia, gutters and down spouts shall blend in and be directly compatible with the architectural detail of the exterior walls. Reflective glass is prohibited.
- (d) Appurtenances. All exterior mechanical equipment including, but not limited to, transformers, vents, air conditioning compressors, pool pumps, meters, etc., shall be concealed from view by walls of the same material and color as the dwelling or by an opaque landscaping screen as approved by the ACC. No solar energy devices shall be allowed.

Section 25. Mining. No mining, quarrying or earth borrow operations of any kind shall be permitted on any Lot. This provision shall not apply to the Developer or its successors and assigns.

ARTICLE XI

Insurance

The Board, or its duly authorized agent, shall obtain such insurance policies upon the Common Area as the Board deems necessary or desirable in its sole discretion. The Association shall be a named insured on all insurance policies. In addition, the Board may obtain other appropriate insurance to protect members of the Board and any committees appointed by the Board.

ARTICLE XII

General Provisions

Section 1. Enforcement.

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

(b) The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the delivery of written notice of such violation or breach as provided in Article II, Section 9(b). The right of abatement means the right of the Architectural Control Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions. Further, the Architectural Control Committee, the Association, the Developer or any Owner may: (1) prosecute proceeding at law for the recovery of damages against those violating or attempting to violate the declaration of covenants and restrictions, and, or (2) maintain a proceeding in equity against those so violating or attempting to violate any covenants or restrictions, for the purpose of preventing or enjoining all of any such violations or attempted violations, and/or to have any such violation removed from the Lot or cured.

Section 7. Construction. Without written approval from the Developer to the contrary, the owner of any Lot shall be required to complete construction in compliance with approved plans and pass final inspection of the Architectural Control Committee within fifteen (15) months of the time that the Architectural Control Committee granted approval of said plans. If the owner fails to complete construction within fifteen (15) months after the Architectural Control Committee approves the plans, the owner will forfeit the \$3,000.00 construction bond to the Association. This paragraph shall not prevent the Owner of the Lot from selling or transferring the Lot to another person or entity. Any such transfer shall not increase the time for construction to be completed.

Section 8. Waiver and Modification.

(a) Developer hereby reserves the right in its absolute discretion at any time to annul, waive, change or modify any of the restricting conditions or covenants contained herein as to any part of CLOUDLAND AT LOOKOUT MOUNTAIN, and shall have further the right before a sale to change the size of or locate or relocate any of the Lots, parcels, streets, easements, Common Areas or roads shown on the Plat of CLOUDLAND AT LOOKOUT MOUNTAIN. Further, the Developer may amend these covenants and restrictions for the purpose of curing any ambiguity or inconsistency between the provisions contained herein.

(b) **Declaration.** Further, this Declaration may be amended at any time and from time to time by the Developer if the Developer is the owner of any real property then subject to this Declaration or by an agreement signed by at least seventy-five percent (75%) of the Owners of Lots; provided, however, such amendment by the Owners shall not be effective unless also signed by Developer, or unless all Lots have a permanent residence constructed thereon. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance thereof, thereby agrees that this Declaration may be amended as provided in this Section.

Section 9. Assignment or Transfer. Any or all of the rights and powers, titles, easements and estates reserved or given to Developer in this Declaration may be assigned to any one or more corporations or assigns which will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such rights and powers, and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by Developer and Developer shall thereupon be released therefrom.

Section 10. Superseding Declaration. This Declaration of Covenants and Restrictions for CLOUDLAND AT LOOKOUT MOUNTAIN supersedes and replaces the Declaration of Covenants and Restrictions for HAMPTON AT CLOUDLAND that was filed for record in the Clerk's Office of the Superior Court of Dade County, Georgia on the 23rd day of October, 1998 at 2:57 p.m. and recorded in book number 233 on page 34-69.

By: Mark Stephen Drummond
Name: Mark Stephen Drummond
Title: Secretary/Treasurer

Attested by:

Mill P. King
Vice-Manager and Assistant Secretary

Signed, Sealed and Delivered in the presence of:

Cecilia B. McByron
Unofficial Witness

and

Rita Pickard
Notary Public
My commission expires: My Commission Expires NOV. 7, 2000



By: Michael Phillips
Name: Michael Phillips
Title: Vice-Manager and Assistant Secretary

Attested by:

Scott A. Reynolds
Secretary ~~Secretary~~ Chief Manager

Signed, Sealed and Delivered in the presence of:

Loretta Mullins
Unofficial Witness

and

Stianne Bass
Notary Public
My commission expires: 12-20-2002