

**DECLARATION OF PROTECTIVE AND RESTRICTIVE COVENANTS**  
**FOR "BLUE MOUNTAIN AIR PARK"**

GEORGIA, WALKER COUNTY.

KNOW BY ALL THESE PRESENTS:

WHEREAS, Brent and Alisa Bigham, is the owner of certain property shown on a plats of survey by attached hereto and made a part hereof as EXHIBIT "A" "BLUE MOUNTAIN AIR PARK", and

WHEREAS, Brent and Alisa Bigham, (hereinafter known as "Owner and/or Developer") in order to provide for orderly development, improvement and maintenance of the property (hereinafter known as "BLUE MOUNTAIN AIR PARK") and to provide for the mutual benefit and protection of the property rights of "BLUE MOUNTAIN AIR PARK" and of the persons who may hereafter reside in and on the property and pose certain restrictions, provide for a property owner's association, and reserve unto itself certain rights and privileges; and

WHEREAS, Owner deems it to be suitable and appropriate to publish said standards and restrictions, impose same upon the property, and establish the same as running with title to the property:

NOW THEREFORE, for and in consideration of the premises, the mutual benefits accruing to Owner as and to subsequent purchasers of the property, Owner does hereby declare said real property to be subject to the following covenants, said covenants to run with the title to said property. Said covenants shall be binding on and inure to the benefit of BLUE MOUNTAIN AIR PARK, its successors and assigns, and shall be binding on and inure to the benefit of the Grantees of any deed conveying parcel or tract, as well as their heirs, successors and assigns. Said covenants shall be as follows:

I.

PERMITTED AND PROHIBITED USES

(1) All parcels within the development shall be owned and used exclusively for single family residential purposes. No more than one dwelling shall be constructed on any parcel as platted.

(2) No dwelling unit shall be constructed, altered or permitted on any lot in this subdivision without prior approval of the Architectural Control Committee. A set of plans shall be submitted to the Architectural Control Committee for approval prior to commencement of any construction.

(3) No house plans will be approved with more than 50% vinyl on the front face of the house exclusive of doors, windows and foundation unless deemed by the Developer or Architectural and Landscape Control Committee to have architectural qualities that would offset the use of additional vinyl on the face of the house. All exposed concrete block or concrete formed foundations shall be covered with masonry brick, natural stone or other material as approved by the Developer or the Architectural Control Committee.

(4) No plans will be approved if they are deemed by the Developer or the Architectural Control Committee to be a departure from the traditional design of existing homes in the subdivision or contain design elements that would distract from the aesthetic appearance of the neighborhood.

(5) Free standing garages and accessory buildings may be constructed but shall not be used for permanent or temporary residence purposes. The design of all such garages and accessory buildings shall be in keeping with the architectural theme of the house as determined by the Developer or the Architectural Control

Committee. Pool houses and similar type accessory buildings may be allowed with approval by the Developer and when activated, the Architectural Control Committee. Excepted from this provision is the "Cabin Lot" and provisions for bangers, item 33 and 34.

(6) Each owner of a lot shall, at their own expense, repair the residence and accessory buildings keeping them in condition comparable to the condition of such residence at the time of its initial construction, excepting normal wear and tear.

(7) If all or any portion of a residence or structure is damaged or destroyed by fire, or other casualty, then the owner shall, with all due diligence, promptly rebuild, repair or reconstruct such residence or structure in a manner which substantially restores it to its condition immediately prior to the casualty. Alternatively, the lot owner shall completely raze the residence and seed the lot until such time as construction of a new residence commences.

(8) All utilities serving all houses built on said lots shall be served by underground utilities. No above ground poles and wires will be permitted on any of said platted lots, without the permission of the Developer or the Architectural Control Committee.

(9) No fence shall be allowed to exist past the rear line of the house without the approval of the Developer or the Architectural Control Committee. In no instance shall chain link fence be allowed past the front line of the house.

(10) When the construction of any building is once begun, work thereon shall be prosecuted diligently and must be completed within a reasonable time not to exceed twelve months from the day construction commences.

(11) No exposed concrete block structures or metal buildings shall be constructed on any lot unless covered with brick, wood, stucco, or other materials approved by the Developer or the Architectural Control Committee.

(12) As soon as construction of any house or other improvement has been completed, the owner of the lot shall clear and remove all stumps, logs, limbs and other debris from the lot unless burial of such material on the lot is approved by the Developer or the Architectural Control Committee.

(13) No exterior satellite dishes larger than 18" or other electronic transmission or receiving equipment shall be placed upon any lot without the prior approval of the Developer or the Architectural Control Committee.

(14) All propane tanks and other such tanks shall be either screened from the road and adjoining lots or buried.

(15) No weeds, garbage or refuse piles, junk cars, vehicles for sale, vehicles under repair, trash or other unsightly objects shall be allowed to be placed or suffered to remain on any part of any lot, including vacant building sites.

(16) No owner shall alter the rate or direction of water flow from any lot by impounding water, changing grade, blocking or re-directing swales, ditches, sub-surface pipes or drainage areas without express written approval of the Developer or Architectural Control Committee. Each owner acknowledges, by acceptance of a deed to any lot, that any and all such drainage or detention areas are for the benefit of the entire subdivision.

(17) Household pets, such as dogs and cats may be kept or maintained in reasonable numbers solely as pets for the pleasure and use of the occupants, but not for any commercial use or purpose. Kennels, pens or other facilities wherein such pets are kept shall be set back from property lines and adequately screened so as not to be a nuisance to the residents of abutting or adjacent building sites.

(18) All airplanes are to be hangered unless otherwise approved by Architectural Control Committee.

(19) No animal or fowl husbandry, commercial or non-commercial, shall be conducted on the property.

(20) Recreational facilities such as swimming pools, tennis courts, playhouses and similar structures shall be set back a reasonable distance from property lines and screened from abutting or adjacent building sites and roads. No outdoor lighting or security lighting shall be permitted unless it is designed and located in such a way as to cast substantially all of the light within the building site wherein it is located.

(21) All trucks, camper trailers, boats, boat trailers, or habitable motor vehicles of any nature except pick-up trucks and vans kept on or stored on any part of the property for more than thirty days of any year shall be screened in such a way as not to be obviously visible from the road, except during the construction phase of any building.

(22) No motor vehicle shall be continuously or habitually parked on any street, public right-of-way or common area of the subdivision.

(23) All automobiles, trucks, motorcycles and other vehicles shall be muffled in such a way that their operation in subdivision does not constitute a nuisance.

(24) No permanent sign of any character shall permanently be displayed or placed upon any part of the property except a sign identifying the residence and owner, the dimensions and design of which shall be subject to the regulations of the Architectural Control Committee. Mailboxes shall comply in dimension and design to regulations of the Architectural Control Committee. This restriction shall not prohibit temporary signs such as political or realty signs as may be allowed by the Architectural Control Committee.

(25) No mobile homes, double-wides, modularstyle, or temporary housing of any type shall be located on any parcel.

(26) No lot or tract in the subdivision shall be further subdivided by any owner. However, the owners or Developer shall have the right to adjust the boundary lines between their lot and/or adjoining lots as long as no new lots are created.

(27) No easement or access shall be granted, conveyed or allowed to exist by any lot owner for the purpose of egress or ingress onto or through said lot from outside the subdivision without the express written approval of the Developer, their heirs or assigns. Additionally, Developer reserves unto itself the sole right for the granting of easements for utilities through any platted lot in the subdivision, provided that lot has not been sold.

(28) No lot shall be used for any commercial purpose, including, but not limited to public campsites.

(29) There shall be no dumping or refuse disposal on any area of said property.

(30) No property owner will do or permit to be done any act upon his/her property which may be or is or may become a nuisance to other property owners or residents.

(31) The minimum building setback is 40 feet road front and 15 feet back and side lines.

(32) The Common Area is restricted from motorized vehicle(s), this includes but not limited to, four-wheelers, motorcycles, and ATV'S.

(33) The "Cabin Lot" may use the existing cabin for guest purposes and said cabin is exempted from the provisions as to these restrictions to the extent that it doesn't comply. It may be used

as housing for guests in the event a separate house is constructed on said lot.

(34) Hangers: Hangers may be used for housing airplanes and other related items so long as the use does not detract from the overall appearance of the property. The hangers may have apartments constructed within the hanger for guest purposes. Only one (1) family may reside in and on the property contained in each lot but hanger may be used as housing for guests or activities related to the use of the hanger and the family being on said lot.

(35) Enforcement of these restrictions shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages, and the cost of attorney fees and court costs of the person or persons who are successful in such litigation shall be paid by the person or persons against whom judgment is obtained. Developer or its assignee shall have a lien on the lot of the violating or non-performing party and on the improvements thereon in order to secure the payment of any such amounts, damages, attorneys' fees and costs.

(34) Developer reserves unto itself the right to impose additional and separate restrictions at the time of sale of any lots sold by it in "BLUE MOUNTAIN AIR PARK" subject to Section IV of this instrument "Effects of Covenants and Restrictions".

## II.

### ARCHITECTURAL CONTROL COMMITTEE

1. All plans for any and all buildings and any additions to existing structures, all walls, fences, swimming pools, tennis courts and recreational facilities must be presented to and approved by the Architectural and Landscape Control Committee in writing prior to the commencement of any construction. The approval by the Committee shall not be unreasonably withheld.

2. The Architectural and Landscape Control Committee shall consist of not less than 3 nor more than 5 members. At any time, Owners shall have the right to transfer to the Property Owners' Association the power and authority to appoint the members of the Committee and to establish rules and regulations pertaining to the Committee's authority and function. In any event, this transfer of authority shall occur no later than the date on which seventy-five (75%) percent of the parcels in the property have been sold, including parcels in any reserved areas.

3. The Committee shall approve or disapprove plans submitted to it within 30 days after an application has been made to the Committee, or if it fails to act within the said 30 days, the application shall be deemed to have been approved. These plans shall include architectural and landscaping plans.

## III.

### "BLUE MOUNTAIN AIR PARK" PROPERTY OWNERS' ASSOCIATION

1. As soon as Owners deem, in their sole discretion, that a sufficient number of parcels have been sold, or 75% of the parcels have been sold, whichever occurs first, Owners shall activate a Property Owners' Association for the purpose of maintaining the standards and enforcing the restrictions contained in the Declaration of Protective and Restrictive Covenants, and for such additional purposes as its membership shall from time to time deem necessary or proper. Said Association shall be known as the "BLUE MOUNTAIN AIR PARK" Property Owners' Association, but may be organized as a corporation or an unincorporated association. All owners of parcels within the development shall, by acceptance of their deeds, be required to become members of the Association and shall be subject to its rules and regulations. Each platted parcel within the development shall have one (1) vote. Owners shall have one (1) vote for each platted parcel which they have

not sold.

2. The Association shall have, in addition to those powers and authority contained elsewhere in this Declaration, and not by way of limitation or restriction, the following powers and authority:

(a) To enforce and provide for the enforcement of the covenants contained herein,

(b) To maintain and provide for any and all common areas within the development, to pay all county taxes on them, and to maintain property and liability insurance on them.

(c) To provide for the common protection and security of the development.

(d) To assess and collect from the members such sums as may be necessary or proper to maintain an entrance sign, pay county taxes, pay property and liability insurance, and do property maintenance in the common areas. However, in no event shall the association have the right or authority to assess and collect from the members a sum greater than \$50.00 per month, per lot, unless such additional charges are authorized by the vote of at least 75% of the owners of lots who are entitled to vote. Owners shall not be required to pay this assessment on unsold parcels.

(e) Assessments and charges, if not paid within 30 days following notification shall constitute a lien on the subject parcel which lien shall also secure all costs including reasonable attorney's fees incurred by the Association in connection with the collection of the assessment of enforcement.

(f) The Association shall have the power and authority to adopt rules and regulations by a 75% vote of its members which shall be binding and enforceable against all of the members.

(g) When Owners desire to activate the Association, it shall give all of the then owners of parcels in the subdivision written notice of that fact, shall give all owners a copy of the proposed by-laws of the Association and shall give all owners notice of the day of the first meeting of the Association. At the said first meeting, said by-laws will be approved and adopted by the members subject to any changes in said by-laws by the vote of 75% of the owners. The initial officers of the association shall also be elected at the first meeting. Subsequent to the adoption of by-laws and election of officers of the Association, Owners shall have no further responsibility or liability for the maintenance or payment of any signs, common areas or county taxes on property and liability insurance. Such responsibilities shall be the sole responsibility of the Association including the maintenance and up-keep of the roads.

#### IV.

##### EFFECTS OF COVENANTS AND RESTRICTIONS

1. These covenants and restrictions shall run with the property and shall be binding upon all parties and all persons claiming under them for a minimum period of 20 years from the date these covenants and restrictions are recorded, after which the said covenants and restrictions shall be automatically extended for successive periods of ten years unless by an instrument signed by 75% of the then owners of the building sites has been recorded agreeing to terminate or change said covenants and restrictions in whole or in part.

2. These covenants and restrictions may be changed, modified or amended by a duly recorded instrument signed by the owner or owners of 75% of the parcels in the development.

3. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event that any one or more of said covenants or restrictions shall, for any reason, be held to be invalid or

unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect. The failure of any party or person to enforce a covenant or restriction contained herein in any instance or against any instance or against any person shall not constitute a waiver or abrogation of said covenant or restriction.

4. The covenants and restrictions contained herein are supplementary to and independent of any and all laws or rules of any governmental agency, and except insofar as these covenants and restrictions shall be rendered void or shall be in conflict with the laws or rules of any governmental agency, they shall not be deemed to have changed by virtue of any laws or rules hereinafter enacted or established by a governmental agency.

These Covenants are hereby declared and established on this the \_\_\_\_\_ day of \_\_\_\_\_, 2004 by the undersigned.

\_\_\_\_\_  
BRENT BIGHAM

\_\_\_\_\_  
ALISA BIGHAM

Signed, sealed and delivered in  
the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public