

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

FOR

TRACTS LOTS 1 - 24 and 26 - 39

HIGH MOUNTAIN DEVELOPMENT

STATE OF WEST VIRGINIA
COUNTY OF RANDOLPH; to-wit:

KNOW ALL MEN BY THESE PRESENTS: THE FOLLOWING PROTECTIVE COVENANTS and RESTRICTIONS for HIGH MOUNTAIN DEVELOPMENT is executed by High Mountain Corporation, a West Virginia corporation, (hereinafter called "Developer"), with its business address at Route 1, Canaan Valley, Davis, West Virginia 26260.

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property situate in Dry Fork District, Randolph County, West Virginia, which is known as High Mountain Development (hereinafter referred to as the "Development"), more particularly described on the Plat prepared by Valley Surveying, Licensed Land Surveyors, dated June - August, 1989, and recorded in the office of the Clerk of the County Commission of Randolph County, West Virginia in Plat Cabinet No. C, at Slide 19; said Plat is incorporated herein by reference, and a reduced copy of the same is attached hereto and labeled Exhibit "A". High Mountain Development is subdivided into Tracts, which said Tracts are more particularly described and shown on the Plat of High Mountain, referenced above; and as may hereafter be recorded from time to time by Developer in the office of the Clerk of the County Commission of Randolph County, West Virginia (the Clerk's Office); and

WHEREAS, Developer desires to create and establish a uniform plan of development for HIGH MOUNTAIN DEVELOPMENT and to sell and convey Tracts 1 - 24 and 26 - 39 within the Development, and before doing so desires to impose upon them actual and beneficial restrictions, covenants, easements, equitable servitudes, charges, assessments, and liens under a general plan of development and improvement of the Development for the mutual enjoyment, convenience, protection and benefit of Tracts and the Owners of said Tracts, present and future; and

WHEREAS, it is expressly understood that the said protective covenants, conditions, and restrictions shall not apply to any real estate not designated and described as Tracts 1 - 24 and 26 - 39 High Mountain Development. Nothing contained in this Declaration shall be construed as limiting or restricting High Mountain Corporation, the Developer, in the development of said 315 acre tract, or any other lands owned by it, that are not subdivided and designated as Tracts 1 - 24 and 26 - 39 High Mountain Development, and shown on the said Exhibit "A" attached hereto, or recorded in the aforesaid Clerk's office as Supplemental or Additional Exhibits to this Declaration. High Mountain Corporation, shall not, by way of example but not by limitation, be limited in its use or sale of other portions of real estate for hotel, lodge, resort, recreational, commercial, entertainment, or similar purposes, nor shall these covenants, conditions, and

restrictions be deemed to prevent the erectio and sale of multifamily units, townhouses, condominiums, or co-operative units or the sale of land, lots, tracts or portions thereof designed for such use in any overall master land plan to be adopted by High Mountain Corporation.

NOW THEREFORE, High Mountain Corporation does hereby declare and establish that the following covenants, restrictions and easements shall constitute covenants to run with Tracts 1 - 24 and 26 - 39 in said High Mountain Development. For reference purposes High Mountain Corporation states that there is no lot surveyed or declared as Tract 25, High Mountain Development at this time.

1. No tract shall be subdivided or its boundary lines changed, and not more than one single family residence shall be erected on any one tract, provided that Declarant may combine one or more lots into a single lot or tract for sale.

2. No residences, buildings, facilities, or other structures, or any additions thereto shall be erected, or the erection thereof begun, on any Tract until the site plans and specifications, and building plans and specifications shall have been presented to and approved in writing by High Mountain Corporation, its successors and assigns. Said plans and specifications shall be submitted to High Mountain Corporation its successors and assigns at least thirty (30) days prior to the intended construction date. The following rules and regulations shall govern the approval of building plans and tract improvement:

a. No building shall be erected closer than 50 feet to any street or road, nor closer than 30 feet to the side or rear of the tract line, with the exception that where two or more tracts are used together for construction of one dwelling and said tracts considered as a single unit as herein stated, then said 30 feet set back shall apply only to outside lines. Except that this restriction may be waived by the Declarant in the event that the only appropriate building site is located within the stated set back lines.

b. In order to assure that all dwellings or other structures will be located with regard to the topography of each individual tract, the Developer reserves the right to control the site and location of any dwelling or other structure upon any one or more tracts, provided, however, that such location shall be determined only after reasonable opportunity is afforded the tract owner to recommend a specific site.

c. The construction of any residence or other building on property herein described shall use as a minimum standard of quality the requirements set forth by Farmers Homes Administration.

d. Nothing but one single family private dwelling, not to exceed two and one-half (2-1/2) stories in height, shall be erected, altered, placed, or permitted to remain on any tract. Outbuildings, such as garages, stables or barns, and greenhouses, shall also be permitted as approved by the Developer. Any such

outbuildin, permitted by the Developer shall conform in design, style, and construction to the dwelling.

e. The minimum ground floor area of living space of any single family dwelling shall be 1000 square feet for a one story dwelling, and 800 square feet for a dwelling of more than one story. This shall not include basement, garage, or porch.

f. The exterior of all residences and other buildings shall be of wood or stone. All roofing materials must be approved by the Developer.

g. All fencing must be split rail, or developer approved fencing.

h. No trees measuring six (6) inches or more in diameter at three feet above ground level may be removed without the written approval of the Developer, unless said tree is within ten (10) feet of the residence or other approved building.

i. Any and all private driveways to each tract which enter and exit onto the main access road shall have a drainpipe installed of not less than twelve (12) feet in length and twelve (12) inches in diameter in order to insure proper drainage.

j. All exterior construction of residences and any additional buildings must be completed and closed in within one (1) year of the commencement date of construction.

k. Final approval of all plans and specifications, including the waiver of certain requirements, is reserved to the Developer.

3. All of said tracts shall be used for residential or recreational purposes only, and any garage or building other than the residence building must conform generally in appearance and material with any dwelling on the said tract; no business or commercial enterprise or profession of any kind or character shall be permitted or conducted thereon; no livestock, sheep, swine or poultry shall be kept or raised on said tract; providing, however, pets, including personal riding horses and cattle not to exceed one (1) per two acres may be kept, if proper fencing and suitable facilities are constructed and such animals do not violate provisions contained in Covenant No. 14.

4. Occasional temporary camping, (temporary being defined as for a period of not more than 14 days continuously) is permitted on lots by owners. No permanent camping, or campsites will be permitted.

5. The Developer reserves unto itself, its heirs, successors and assigns, the following rights of way and easements upon, over, through, along, or under each Tract, together with the right of ingress and egress, to the extent reasonably necessary to exercise such easements:

a. An easement for the construction, maintenance, upkeep, and repair of the roadways and rights of way, the location or locations therefore are shown on the

- b. An easement to construct, install, erect, operate, maintain, and remove all utility poles, conduits, cables, pipes, transformers, lines and other equipment necessary for electrical, televis' cable, and/or telephone service to the Tracts herein described, including, but not limited to the accessory right to cut, trim, or remove trees, shrubs, or plantings wherever necessary.
- c. An easement to excavate, construct, install, maintain and remove water and sewer lines, pipes, and all other equipment necessary for water and sewage service to the Tracts herein described.
- d. An easement for nonexclusive, perpetual access for ingress and egress across all private roads, access roads, to and from all Tracts, and all improvements, and undeveloped lands belonging now or hereafter to the Developer.
- e. An easement for the purpose of cutting, filling, drainage, and maintenance of slopes and drainage courses.
- f. Developer further reserves for itself its successors and assigns, the right to establish and grant such additional easements, reservations, exceptions, and exclusions, consistent with the ownership of the Development and in the best interest of the Owners in order to serve the entire Development.

All easements reserved for the purposes of utility operation shall be limited to a strip of land fifteen (15) feet wide at any point along the side, rear, and thirty (30) feet on front lines of any of said tracts. Paragraph 5 of this Declaration shall not be construed to be an obligation of the Developer to provide or maintain any such utility services.

6. No signs, including "For Sale" signs shall be displayed to the public view, except that one (1) sign of not more than two (2) square feet, showing the owner's name and the name of the residence shall be permitted on a Tract. In no event shall said sign measure more than three (3) feet in length, height, or width. This covenant shall not be construed to prevent the erection of development entrance signs by the Developer.

7. Prior to the occupation of any residence situate on the herein described Tracts, the owner thereof shall, at his/her expense install a septic tank and drainage field or sewage disposal system. All toilets, septic tanks, sewage, water and waste disposal systems constructed on said tracts shall conform to the rules and regulations of the West Virginia State Health Department; further, activities or use of said tract shall not pollute or cause waste to any spring, drain, or stream situate on or traversing said tract.

8. No house trailers, trucks, bus, dilapidated cars or unsightly vehicles of any type or description may be stored, used for buildings, left or abandoned on said tracts.

9. It is agreed that as soon as seventy-five percent (75%) of the tracts have been sold in this development, or in the exclusive determination reserved unto the Developer, a non-stock property owners' association, to be known as the "High Mountain Owners Association", shall be formed with one membership, one vote, for each property owner, and that this Association shall establish reasonable annual assessment charges for recreational and conservancy areas, road maintenance and other maintenance relative to a development of this type.

Each and every purchaser and tract owner for himself, his heirs and assigns, agrees and covenants that they shall become a member of the "High Mountain Owners Association" and shall be bound by the "By-Laws" of the Association from time to time in effect and rules and regulations imposed by said Association.

10. The roadways or rights-of-ways constructed on the property herein conveyed are for the use in common of the Developer, its Grantees, and their respective heirs, successors and assigns. Each Owner of a Tract in said Development shall have a nonexclusive perpetual easement for ingress to and egress from his tract, over and across all walkways, private roads, and access roads, subject to such Owner being current with all Assessments due to the Developer, or the Owners' Association.

There is reserved to the Developer, and/or the High Mountain Owners Association the right to dedicate and transfer all or any part of the roads to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Developer and/or the Association.

11. Each and all Owners of a Tract in said Development shall be required to pay a Road Assessment for each Tract owned. All Road Assessments shall provide for the reasonable construction, use, maintenance, expansion, removal of the private, common access roads within the development. All assessments, including any pro-rata shares of said assessments shall be collected by and paid to the Developer beginning calendar year January 1, 1990 - December 31, 1990. At the creation of the High Mountain Owners Association, said assessments shall be collected by and paid to the Owners Association. The assessment for the calendar year January 1, 1990 - December 31, 1990 shall be \$100.00, per tract. Said assessment may be increased or decreased by the Owners Association for following years in accordance with the current maintenance and improvement costs and future needs of the development.

All assessments shall be due and owing on the 1st day of January, of each calendar year, and if unpaid shall be a lien upon the property against which each such assessment is made, and the Developer or the Owners Association shall have the right to sue for and collect any assessment, together with interest, properly assessed under this covenant.

12. Licensed vehicles, including cars, trucks, motorcycles, dirt bikes, three or four wheeler, ATV's, or recreational vehicles may be used on the roadways or right-of-ways in said Development, for access, ingress and egress to and from individual lots. No off-road use of such vehicles is permitted in said Development. The sole exception to this covenant is the use of such vehicles for agricultural purposes.

13. No tract shall be used or maintained as a dumping ground for rubbish, nor shall any rubbish or garbage, or other waste of any type be allowed to accumulate on said tract. Said rubbish, garbage, or other waste shall be kept in sanitary containers, and all such containers or incinerators or other equipment used for the storage or disposal of said material shall be kept in a clean and sanitary condition and located in as inconspicuous a place as possible. It is understood and agreed that there is no obligation on the part of the Developer to provide garbage or trash removal services.

14. No obnoxious or offensive use shall be made of any tract, nor shall any offensive trade or activity be carried on upon any tract, nor shall any activity of any nature whatsoever be conducted on a tract which may constitute a nuisance. It is not the intent of this restrictive covenant to prohibit agricultural activities, or horticultural activities which do not produce toxic or noxious noises, odors, gases, or other emissions.

15. No exterior television dish shall be constructed or erected on any tract or residence except of a brown or black color.

16. All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them for a period of twenty-five (25) years from October 1, 1989, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owner of Tracts affected by such covenants has been recorded, agreeing to change said covenants in whole or in part. No restriction or covenant herein is intended to be used nor shall any restriction or covenant be used by any tract owner or the Developer to discriminate or attempt to discriminate against any person, whether a tract purchaser or prospective purchaser upon resale by a tract owner, upon basis of race, creed, color, or national origin.

17. Nothing herein is to be construed to prevent the Developer from amending or placing further restrictions or covenants, or easements, on Tracts in High Mountain Development which have not been conveyed by it.

18. In the event of a violation or breach of any of the covenants or restriction by any property owner, or agent of such owner, the owner of tracts in the development, or any of them jointly or severally shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Developer shall have the right, whenever a breach, or violation, or attempted breach shall have occurred, to enter upon the

property where such violation exists, and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation, it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed as trespass. The failure to enforce any right, reservation, restriction or condition contained in these covenants and restrictions, however long continued, shall not be deemed a waiver of the rights to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

19. The invalidation of any Court of any restrictions in this Declaration of Protective Covenants and Restrictions contained shall in no way affect any of the other restrictions and they shall remain in full force and effect.

IN WITNESS WHEREOF, the said Corporation has caused these presents to be signed and its corporate seal to be hereunto affixed by its proper officer thereunto duly authorized, on this the 10th day of October, 1989.

HIGH MOUNTAIN CORPORATION

BY: David Curtis
Its President

ATTEST:

Mary R. Curtis
Its Secretary

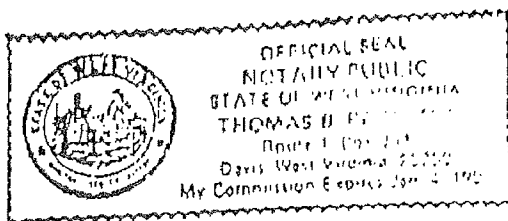
STATE OF WEST VIRGINIA,

COUNTY OF Tucker, to-wit:

I, Thomas B. Preston, a Notary Public in and for the County and State aforesaid, do certify that DAVID CURTIS, who signed the writing above bearing date the 10th day of October, 1989, for HIGH MOUNTAIN CORPORATION has this day acknowledged the same before me to be the act and deed of said corporation.

Given under my hand this 10th day of October, 1989.

My commission expires: January 7, 1991.



Thomas B. Preston
Notary Public

Lot 36 – High Mountain, WV
Submitted by Seller

- 2500 sq. ft home, built in 2007– home has only been used as a second home, and then only sparsely.
- Detached root cellar and storage shed (12ft x 12ft). Built in 2011
- Beautiful, panoramic views of the mountains and the town of Harman (southern exposure)
- 6.9 acre lot that is approximately 3,700 feet above sea level
- Home owners association that furnishes snow removal and road maintenance (\$450 annual dues)
- large pond
- 40ft. x 80ft. garden (tons of topsoil was hauled in) with a 8ft tall fence around the perimeter.
- Low taxes - \$902 this year
- Fully furnished with all new furniture, furnishings and original art work
- 3 or 4 bedroom, 3 full baths, living room, den, loft area
- All new appliances including refrigerator, stove, microwave, dish washer and garbage disposal
- Solid wood kitchen cabinets
- Hardwood, tile and Berber carpet flooring
- All solid wood doors and wood trim
- 24 foot ceilings in the living room and master bedroom with wood planking on the ceilings and large triangular windows
- Lighted, large storage areas in the eaves
- Ceiling fans throughout
- Free standing wood stove with soapstone inserts, specially ordered from New Hampshire
- Decks on three levels
- Fully finished large garage with shelving installed along with work bench and lights
- Hardiplank siding (cement composite siding (that is rot and insect proof on both the house siding, eaves and facial boards, and on the detached building
- Metal, shingle style roof
- Trek composite decking (will never rot)
- Engineered beams run the full length of the house to support the main and loft floors
- 2" x 12" roof joists
- Foundation for the house was dug out to the bedrock and then tons of concrete were poured. All concrete blocks that would be underground had concrete parging along with a waterproof sealant installed on them.
- Sprayed in insulation in all exterior walls. This insulation hardens and has an excellent insulation factor, along with added structural strength, resulting in very low utility bills (and it was very expensive)