

THIS ROAD MAINTENANCE AGREEMENT made and entered into this 29th day of November, 1990, by and between MARVIN A. SPENCER and CAROLYN L. SPENCER, husband and wife (hereinafter called "Spencer"), ANTHONY C. GUTTILLA and EVELYN H. GUTTILLA, husband and wife (hereinafter called "Guttilla"), and LILLIAN C. BOGGIANO, feme sole (hereinafter called "Boggiano"), and ARTHUR GREENE and VIRGINIA BASS GREENE, husband and wife, (hereinafter called "Greene"), parties of the first part, and GARY PETERSON, single, and MARCA-MARIA BOGGIANO, single, (hereinafter called "Peterson"), parties of the second part, all parties hereto are collectively referred to as "the Owners".

W I T N E S S E T H:

WHEREAS, Spencer owns Lot 1, Block A, Section One of Rockbrook Subdivision shown on plat by William S. Roudabush, Jr. and Associates, which plat is dated August, 1965, and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 413, Page 442; being the same property in all respects conveyed to Spencer by deed from Norman L. Lushbaugh and Mary C. Lushbaugh, husband and wife, dated September 15, 1966, and recorded in the said Clerk's Office in Deed Book 421, Page 434; and,

WHEREAS, Spencer owns Lot 4, Block A, Section One of Rockbrook Subdivision shown on said plat by William S. Roudabush, Jr. and Associates, dated August, 1965, and recorded in Deed Book 413, Page 442; being the same property in all respects conveyed to Spencer by deed from Monty Ray Marshall and Jane L. Marshall, his wife, dated May 30, 1979, and recorded in the said Clerk's Office in Deed Book 672, Page 150; and,

WHEREAS, Spencer owns Lot 1 and Lot 2, Block B, Rockbrook Subdivision shown on plat of William S. Roudabush, Jr., C.L.S., dated March 26, 1968, and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 452, Page 225; being the same property in all respects conveyed to Spencer by deed from Norman L. Lushbaugh and Mary C. Lushbaugh, his wife, dated November 30, 1977, and recorded in the said Clerk's Office in Deed Book 640, Page 28; and,

WHEREAS, Spencer owns Lot 3, Block B, Rockbrook Subdivision shown on said August, 1965, plat by William S. Roudabush, Jr. and Associates, recorded in the said Clerk's Office in Deed Book 413, Page 442; being a portion of the property conveyed to Spencer by deed from Rockbrook Building Corporation, a Virginia corporation, dated January 3, 1973, and recorded in the said Clerk's Office in Deed Book 521, Page 147; and,

WHEREAS, Guttilla owns Lot 2, Block A, Rockbrook Subdivision shown on said August, 1965, plat by William S. Roudabush, Jr. and Associates, recorded in the said Clerk's Office in Deed Book 413, Page 442; being the same property in all respects

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conveyed to Guttilla by deed from Harry L. Marshall and Sally F. Marshall, husband and wife, dated October 27, 1971, and recorded in the said Clerk's Office in Deed Book 497, Page 223; and,

WHEREAS, Boggiano owns Lot 3, Block A, Rockbrook Subdivision shown on the said August, 1965, plat by William S. Roudabush, Jr. and Associates, recorded in the said Clerk's Office in Deed Book 413, Page 442, and on the plat of the said Roudabush dated June 6, 1967, and recorded in the said Clerk's Office in Deed Book 437, Page 419; being the same property in all respects conveyed to Boggiano by deed from John E. Boggiano, Jr. and Lillian C. Boggiano, husband and wife, dated April 18, 1977, and recorded in the said Clerk's Office in Deed Book 619, Page 499; and,

WHEREAS, Greene owns 1.83 acres, more or less, designated as Parcel "A" on a plat of William S. Roudabush, Jr. and Associates, dated February, 1971 and recorded in the said Clerk's Office in Deed Book 488, Page 12, and shown on Albemarle County Tax Map Sheet 61 as Parcel 188B; being the same property in all respects conveyed to Virginia Bass Greene by deed dated December 1, 1977, from Lester Greenwood and Virginia M. Greenwood, husband and wife, of record in the said Clerk's Office in Deed Book 638, Page 298;

WHEREAS, Peterson is the contract purchaser of the said Lot 3, Block A, Rockbrook Subdivision shown on the above-described plats recorded in the said Clerk's Office in Deed Book 413, Page 442 and Deed Book 437, Page 419, as per contract dated November 12, 1990.

WHEREAS, the parties of the first part have used the private roads shown and designated on said August, 1965, plat by William S. Roudabush, Jr. and Associates, recorded in the said Clerk's Office in Deed Book 413, Page 442, as "Rockbrook Drive" and that portion of "Old Rio Road" which leads from Rockbrook Drive to State Route 631 (Rio Road), as a means of access between their respective properties and State Route 631; and,

NOW THEREFORE, in consideration of the mutual advantages to be derived by each, the Owners do hereby set forth the following terms of this Road Maintenance Agreement since costs of maintenance, upkeep or replacement of the private road will not be borne by the County, the Commonwealth of Virginia, or any other public agency at the present time and condition:

1. Each of said owners shall pay his or her pro-rata share of the costs of maintaining the right of way shown and designated as "Rockbrook Drive" and, if necessary, that portion of "Old Rio Road" which leads to State Route 631 (Rio Road) on said August, 1965, plat by William S. Roudabush, Jr. and Associates, recorded in the said Clerk's Office in Deed Book 413, Page 442. The pro-rata share of the maintenance for each individual lot owner shall be determined by the total number of improved lots or parcels of property using and/or both the private roads. The owners of any unimproved lots or parcels of property shall not be required to share in the maintenance until construction commences on said lot.

2. The right of way shall be maintained in at least its

current condition and shall be maintained, including its present width, so as to allow for the reasonable and safe access of standard passenger automobiles in all but severe weather.

3. For purposes of this Agreement, there are at present five (5) lots whose owners will be responsible to share in the maintenance of that portion of the private road designated as Rockbrook Drive: Spencer has three (3) improved lots; Guttilla has one (1) improved lot; and Boggiano presently has one (1) improved lot, which is under contract to be sold to Peterson. Furthermore, there are six (6) lots whose owners will be responsible to share in the maintenance of that portion of the private road designated as "Old Rio Road". These six shares consist of the five owners described above plus Greene who has one (1) improved lot.

4. At such time as the private road requires repairs to maintain it in passable condition as described above, the Owners shall, by majority consensus (each improved lot is entitled to one vote), either choose the method of repairs and/or contractor to perform the repairs, or appoint an individual or committee to make this choice or choices; however, under this Agreement, no owner shall be obligated for expenses in excess of those necessary to maintain the road in passable condition as hereinabove set forth. In the event of a tie vote, the Owners agree to select an arbitrator who will resolve any dispute.

5. The matter set forth in this agreement shall run with the land, inure to and be binding upon the successors in interest,

heirs and assigns of the parties hereto.

WITNESS the following signatures and seals:

Marvin A. Spencer (SEAL)

Carolyn L. Spencer (SEAL)
Carolyn L. Spencer

Anthony C. Guttilla (SEAL)

Evelyn H. Guttilla (SEAL)
Evelyn H. Guttilla

Gary Peterson (SEAL)

Marca-Maria Boggiaro (SEAL)
Marca-Maria Boggiaro

Arthur Greene (SEAL)

Virginia B. Greene (SEAL)
Virginia B. Greene

Lillian C. Boggiaro (SEAL)
Lillian C. Boggiaro

STATE OF VIRGINIA

CITY/COUNTY OF Allemanville to-wit:

The foregoing instrument was acknowledged before me this 30th day of November, 1990, by Marvin A. Spencer and Carolyn L. Spencer.

D. Gail Smith
Notary Public

My commission expires: 10/31/94

STATE OF VIRGINIA

CITY/COUNTY OF Albemarle, to-wit:

The foregoing instrument was acknowledged before me this 30th day of November, 1990, by Anthony C. Guttilla and Evelyn H. Guttilla.

My commission expires: 10/31/94 D. Gail Smith
Notary Public

STATE OF VIRGINIA

CITY/COUNTY OF ALBEMARLE, to-wit:

The foregoing instrument was acknowledged before me this 30th day of November, 1990, by Gary Peterson and Marca-Maria Boggiano.

My commission expires: 1/31/90 Michael J. [Signature]
Notary Public

STATE OF VIRGINIA

CITY/COUNTY OF Albemarle, to-wit:

The foregoing instrument was acknowledged before me this 30th day of November, 1990, by Arthur Greene and Virginia B. Greene.

My commission expires: 10/31/94 D. Gail Smith
Notary Public

STATE OF VIRGINIA

CITY/COUNTY OF ALBEMARLE, to-wit:

The foregoing instrument was acknowledged before me this 30th day of November, 1990, by Lillian C. Boggiano.

Willard J. Star
Notary Public

My commission expires: 1/31/90

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF ALBEMARLE

THIS DEED WAS PRESENTED, AND WITH CERTIFICATE ANNEKED, IS ADMITTED TO RECORD ON Dec. 7, 1990, AT 1:55 O'CLOCK 7 M.

| | | |
|----------------|-----------------|-------|
| STATE TAX | \$ _____ | (039) |
| LOCAL TAX | \$ _____ | (213) |
| TRANSFER FEE | \$ _____ | (212) |
| VSLEF | \$ <u>1.00</u> | (145) |
| CLERK'S FEE | \$ <u>16.00</u> | (301) |
| PLAT | \$ _____ | |
| SEC. 58.1-802: | | |
| STATE TAX | \$ _____ | (038) |
| LOCAL TAX | \$ _____ | (220) |
| LOCAL TAX | \$ _____ | (223) |
| TOTAL | \$ <u>17.00</u> | |

TESTE: SHELBY J. MARSHALL, CLERK
BY: Baranne M. Morris
DEPUTY CLERK