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RECORDED

AGREEMENT
FOR

SEP 14 3 43 PM '79

REGISTER OF DEEDS
Paul Johnson
INGHAM COUNTY, MICH.

MAINTENANCE AND REPAIR OF DRIVEWAY EASEMENT

THIS AGREEMENT entered into between BENEICKE AND KRUE NO. 2, INC., a Michigan Corporation of 1600 Woodward Avenue, Birmingham, Michigan, hereinafter referred to as "Proprietor" and HAWTHORN SUBDIVISION ASSOCIATION, INC., a Michigan Non-Profit Corporation of 1600 Woodward Avenue, Birmingham, Michigan hereinafter referred to as "ASSOCIATION."

WITNESSETH:

WHEREAS BENEICKE AND KRUE NO. 2, INC., is the owner of the following parcels of land within the City of East Lansing, Ingham County, Michigan:

Lots No. 69, 70, 71, and 72 of HAWTHORN SUBDIVISION, according to the recorded plat thereof, City of East Lansing, Ingham County, Michigan.

and,

WHEREAS, HAWTHORN SUBDIVISION ASSOCIATION is a property owners association vested by its Articles of Incorporation to promote and develop the common good of the residents of Hawthorn Subdivision and exercise its powers to that end, and

WHEREAS, as relates to Lots No. 69, 70, 71, and 72 of HAWTHORN SUBDIVISION as more particularly described above there is an easement of ingress and egress effecting said lots as set forth on the recorded plat of HAWTHORN SUBDIVISION; and

WHEREAS, it is deemed appropriate by the parties



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hereto that said easement be properly maintained for the benefit of the lot owners adjoining said easement of ingress and egress, and

WHEREAS, it is the desire of the parties hereto to reduce to writing an Agreement as to the maintenance of said easement with the intent that said Agreement be recorded and that all subsequent transfers of Lots 69, 70, 71, and 72, be subject to and encumbered by the benefits and obligations of this agreement, said Agreement to run with the land,

NOW THEREFORE, in consideration of the mutual covenants and agreement hereafter set forth it is hereby agreed as follows:

1. That the owner or owners of Lots 69, 70, 71, and 72 of HAWTHORN SUBDIVISION shall share in the costs, expenses, and obligations of maintaining and repairing the easement of ingress and egress between Lots 69 and 70 as set forth on the recorded plat of the Subdivision in the following pro rata manner:

Lot No. 69	14.27%
Lot No. 70	14.27%
Lot No. 71	35.73%
Lot No. 72	35.73%

2. That Proprietor shall initially grade and pave said easement of ingress and egress.

3. That thereafter, as lots are sold by Proprietor, each owner or joint owner of an individual lot shall pay his share of the maintenance expenses using the appropriate percentage set forth in Paragraph 1 hereof.

4. That so long as the owners of the four (4) lots can unanimously agree as to the items of maintenance and repair to be performed to the easement and the cost

thereof, they may proceed to perform or have performed the necessary maintenance and repair work and pay therefor without the advise or consent of the Association, PROVIDED, however, should any lot owner or joint owner object to the type of the maintenance or repair of the easement or the cost thereof, any one or more of the lot owners shall notify the Association of a dispute; thereupon the Association shall take the following steps:

(a) Within ten (10) days of receipt of the notice of a dispute, set a date for a hearing before the Board of Directors of the Association, or such Committee (consisting of at least three (3) lot owners of the Subdivision) as the Board may designate to hear the proceedings, and give notice to the owners of Lots 69, 70, 71, and 72 of HAWTHORN SUBDIVISION of the date so set which date shall be within thirty (30) days after notification of the dispute; said notice to be sent by ordinary mail, postage prepaid, to the mailing addresses of Lots 69, 70, 71, and 72. If a member of the Board of Directors is an owner of one of the lots involved herein, he shall not participate in the deliberations of the Board regarding any disputes which arise hereunder.

(b) The notice shall inform the lot owners that a dispute has arisen and give a brief description of the dispute; the notice shall further state that if the lot owner wishes to present his position with regard to the dispute, he may present same at the time and place set forth in the notice.

(c) The Board of Directors, or its designated committee, shall, after hearing the position of those lot owners present at the time and place designated in the notice, make a ruling regarding the dispute; the Board, or its Committee, shall:

- i. Determine whether repair or maintenance is required.
- ii. If so, the type of repair or maintenance to be performed.
- iii. The cost of such repair or maintenance.

[d] The Board, or its Committee, shall notify the owners of lot 69, 70, 71, and 72 in writing of its decision within ten (10) days after the hearing.

[e] Said decision shall be final and binding upon all of the owners of lots 69, 70, 71, and 72.

[f] If the repair or maintenance is not performed or contracted to be performed by the lot owners within ten (10) days after the sending of the notice of the decision, the Association shall contract to have the maintenance or repair work done and pay therefor, and upon payment the obligation shall become an assessment upon Lot 69, 70, 71, and 72 based upon the cost to the Association; the assessment for each lot shall be in the proportion or percentage as set forth in Paragraph 1 hereof; the Association shall record with the Register of Deeds of Ingham County an appropriate document reflecting the assessment.

5. That any assessment made by the Association pursuant to Paragraph 4[f] shall create a lien upon the lot to which the assessment applies, and further, said assessment shall also be the personal obligation of the owners of such property at the time the assessment was made.

6. That any such assessment not paid within thirty (30) days after the assessment is placed upon the property shall bear interest at 7% per annum; the Association may bring an action at law against the owner personally obligated to pay same, or foreclose the lien against the property in the

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same manner as mortgages are foreclosed.

7. That a subsequent sale or transfer of any lot burdened by such assessment shall not affect the assessment lien, PROVIDED, however, that the sale or transfer on any lot pursuant to a mortgage foreclosure sale shall extinguish the lien of such assessment as to any assessment which became due prior to the foreclosure sale.

8. That Proprietor, upon execution of this agreement, deposits with the Association the sum of One Thousand Dollars and No Cents [\$1,000.00], receipt thereof being hereby acknowledged by the Association; said One Thousand Dollars [\$1,000.00], hereinafter called "escrow funds," is to be used by the Association to indemnify itself for any obligations it incurs in its exercise of jurisdiction over disputes as set forth in this agreement; however, it is the intent of the parties hereto that any obligations incurred by the Association for repair or maintenance work performed in relation to the easement will always be reimbursed by the owners of Lot 69, 70, 71, and 72 and thereby replenish the escrow fund.

9. That any assessments specially assessed against the easement of ingress and egress by any governmental authority shall be paid by the owners of Lots 69, 70, 71, and 72 in the percentages set forth in Paragraph 1 hereof.

10. That this Agreement and obligations hereunder shall run with the land, and bind the successors in title to the Lots 69, 70, 71, and 72 of HAWTHORN SUBDIVISION.

THIS AGREEMENT signed and sealed by the parties hereto this 7th day of August, 1979.

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WITNESS:

Catherine L. Morgan
Catherine L. Morgan

BENEICKE AND KRUE NO. 2, INC.,
a Michigan Corporation
By: [Signature]
Richard P. Beneicke, President
and

[Signature]
Sharon L. Bauerle

By: [Signature]
Barbara J. Dawson, Secretary

WITNESS:

Catherine L. Morgan
Catherine L. Morgan

HAWTHORN SUBDIVISION ASSOCIATION, INC.
a Michigan Non-Profit Corporation
By: [Signature]
Richard P. Beneicke, President
and

[Signature]
Sharon L. Bauerle
STATE OF MICHIGAN) ss
County of Oakland)

By: [Signature]
John R. Beneicke, Secretary

On this 7th day of August, 1979, before me, a notary public, in and for said County appeared RICHARD P. BENEICKE and BARBARA J. DAWSON to me personally known; who, by me duly sworn, did each for himself say that they are respectively the President and Secretary of BENEICKE AND KRUE NO. 2, INC., the Corporation named in and which executed the within instrument, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and said President and Secretary acknowledged said instrument to be the free act and deed of said corporation.

Catherine L. Morgan
Catherine L. Morgan
Notary Public, Oakland County, Michigan
My commission expires: March 14, 1982



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STATE OF MICHIGAN)
) ss
County of Oakland)

On this 20th day of August, 1979, before me, a notary public, in and for said County appeared RICHARD P. BENEICKE and JOHN R. BENEICKE to me personally known, who, being by me duly sworn, did each for himself say that they are respectively the President and Secretary of HAWTHORN SUBDIVISION ASSOCIATION, INC., the corporation named in and which executed the within instrument, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and said President and Secretary acknowledged said instrument to be the free act and deed of said corporation.

Catherine L. Morgan
Catherine L. Morgan
Notary Public, Oakland County, Michigan
My commission expires: March 14, 1982

This instrument prepared by Jonathan R. White
HUBBARD, FOX, THOMAS, WHITE & BENTSON, Attorneys
1108 Michigan National Tower
Lansing, Michigan 48933

