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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE TIMBERS AT CHRISTMAS MOUNTAIN

This Declaration is made this 26th day of July, 1989 by Dellona Enterprises, Inc., a Wisconsin corporation, hereinafter (together with its successors and assigns who come to stand in the same relation to the Property as did their predecessor in title) referred to as "Declarant".

R E C I T A L S :

Declarant is the fee simple owner of that parcel of real property located in the Town of Dellona, Sauk County, Wisconsin which is more particularly described in Exhibit A, attached hereto and made a part hereof by this reference (hereinafter called the "Property").

Declarant contemplates the sale of Undivided Interests in the Property to purchasers thereof.

Declarant desires to establish on the Property a project known or to be known as "The Timbers at Christmas Mountain", to contain amenities and Accommodations as hereinafter defined.

Declarant desires to provide for the preservation of the values and amenities in said project and for the maintenance of the Accommodations and other facilities within the Property, all as referenced above and as hereinafter referenced and, to this end, does hereby subject the Property (sometimes referred to as "The Timbers" or "The Timbers at Christmas Mountain") to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, all of which are for the benefit of The Timbers at Christmas Mountain, the Declarant and of each Owner thereof, including each Owner of an Undivided Interest thereof.

Declarant has created The Timbers at Christmas Mountain Association, an unincorporated association to maintain and administer the Property, including the Accommodations and other facilities and improvements as might be located within the Property, such Association to be comprised of all Owners and to administer and enforce the covenants, conditions, restrictions, easements and liens herein established and provided pertaining to The Timbers at Christmas Mountain. Declarant is the owner of a hotel, recreation center and recreational property adjacent to or within the vicinity of the Property and by the terms of this Declaration, the Owners are extended rights of use, subject to the provisions of this Declaration.

NOW, THEREFORE, Declarant does, by these presents, hereby declare that the Property is to be known as "The Timbers at Christmas Mountain", a Section of Christmas Mountain Village and the Property is hereby made subject to (i) this Declaration and each and every covenant, condition, restriction, easement, charge and lien hereinafter set forth, (ii) any covenant, condition, restriction, easement, charge or lien hereafter enacted by amendment to this Declaration, the Articles of Association or By-Laws of The Timbers at Christmas Mountain Association, and (iii) covenants, conditions, restrictions, easements, charges and liens imposed by the Christmas Mountain Village Property Owners' Association, Inc. (the "POA") as provided in its Articles of Incorporation, By-Laws, Rules and Regulations. From and after the date of this Declaration, the Property and any and all Undivided Interests thereof shall be owned, transferred, sold, conveyed, and occupied subject to each and every provision and the entirety of this Declaration, which shall be construed as covenants, easements and conditions running with the title and ownership of the land creating mutual, equitable servitudes for the benefit of each Owner of the Property and the Declarant.

I  
DEFINITIONS

The following words, when used in this Declaration and when used in any other document which might incorporate the terms of this Declaration, shall have the following meanings:

- (a) "Association" shall mean the unincorporated association named "The Timbers at Christmas Mountain Association", organized as the association of Owners of Undivided Interests in the Property.
- (b) "POA" shall mean the Christmas Mountain Village Property Owners' Association, Inc., a Wisconsin corporation organized as the Association of all Owners of Christmas Mountain Village, including Owners of Undivided Interests in the Property. A more complete description of the POA is set forth in Article III, below.
- (c) "Cabin" shall mean a "Resort Cabin" or a "Grand Cabin".
- (d) "Accommodation" shall mean a Cabin or such other facility or improvement as may be established by Declarant for overnight use and occupancy by Owners and designated an Accommodation on the plat.
- (e) "Common Furnishings" shall mean all furniture, furnishings, appliances, fixtures and equipment and all other personal property from time to time owned, leased, or held for use by the Owners of Undivided Interests, including all in-place furnishings as might be located in an Accommodation, including Resort Cabins or Grand Cabins.
- (f) "Expansion Property" shall mean that real property described on Exhibit B, attached hereto and incorporated herein by reference, which is owned by the Declarant as of the date of this Declaration and which may, at Declarant's option, be added, in one or more parcels, to the Property.
- (g) "Land Contract" shall mean a land contract by which an Owner acquires equitable title to an Undivided Interest, subject to the terms and conditions contained therein. Each land contract shall be in writing and public record thereof shall be evidenced by an affidavit setting forth the identity of the Owner, the Undivided Interest purchased, and the date of the land contract, recorded in the office of the Register of Deeds for Sauk County, Wisconsin.
- (h) "Owner" shall mean the Owner of an Undivided Interest.
- (i) "Resort Cabin" shall mean an enclosed structure with a roof, designed as temporary living quarters, and which is designated by Declarant on a plat as a Resort Cabin. Occupancy and use of a Resort Cabin is limited to Resort Cabin Users or the Declarant.
- (j) "Grand Cabin" shall mean an enclosed structure with a roof, designed as temporary living quarters, and which is designated on a plat, by Declarant, as a Grand Cabin. Occupancy and use of a Grand Cabin shall be limited to Grand Cabin Users or the Declarant.
- (k) "Plat" shall mean that certain plat made for Declarant of The Timbers at Christmas Mountain and such future plats of the Property or portion thereof as recorded from time to time in the office of the Register of Deeds for Sauk County, Wisconsin and as kept and maintained at the

principal office of the Declarant and within the principal management office of the Association located on the Property.

(l) "Recreational Property" shall mean that property, which is owned by the Declarant on the date hereof within Christmas Mountain Village, neither owned nor leased by the Association, the POA or any other association of Unit Owners. Certain amenities are located on the Recreational Property, which amenities include the golf course, ski hill, cross country ski trails, hotel, chalet and recreational building. Declarant may, in its sole discretion, expand the property that comprises the Recreational Property pursuant to Article IV, paragraph F hereof.

(m) "Christmas Mountain Village" shall mean the Property, the Recreational Property, the Expansion Property, the Christmas Mountain Campground, the Villas at Christmas Mountain, and any other property which the Declarant may hereafter include.

(n) "Undivided Interest" shall mean 1/2500th fractional interest as tenant in common in the Property.

(o) "Club" shall mean an Undivided Interest in the Property which entitles the Owner to use of the Recreational Property but not to use or occupancy of a Cabin.

## II USE AND OWNERSHIP

A. Use. The Property shall be used solely for recreational purposes as permitted by the terms of this Article and as may otherwise be permitted by the Declarant; provided, however, that no Owner shall make an Accommodation his primary residence or use his Undivided Interest or any portion of the Property for commercial purposes. No aboveground or underground structure or fixture of any kind or nature and no fences of any kind shall be constructed, maintained or permitted upon any portion of the Property without the express prior written approval of the Association or as may be installed by or at the direction of the Association or the Declarant. No personal property may be placed, stored, kept or permitted to be maintained upon any portion of the Property except within Accommodations and no vehicle may be parked or stored except in areas specifically designated for motor vehicle parking or recreational vehicle storage. No Accommodation may be used or occupied by any Owner unless and until such Owner has complied with the reservation procedure, as hereinafter provided. No portion of the subject property shall be used in such a manner as to obstruct or interfere with the use and enjoyment of any Accommodation by the Owners, other than the Accommodation as might be reserved lawfully by an Owner, nor shall any nuisance or illegal activity be permitted to occur or be committed upon the Property or any Accommodation. No Owner shall have the right to make alterations or repairs to any Accommodation, nor shall any Owner create or permit to exist any nuisance within the Property or commit waste with respect thereto. Notwithstanding any other provision herein to the contrary, nothing in this Declaration shall be construed as prohibiting the Declarant from completing construction of improvements within the Property as may hereafter be determined by Declarant or from conducting any activity which Declarant intends as a means of promoting the sale of Undivided Interests with the Property.

B. Rights of Owners. Subject to the payment of all assessments as might be levied by the Association or Declarant hereunder, and subject to the provisions of the Declaration including Section D of this Article II and the Rules and Regulations as might be adopted applicable to the Property and

Accommodations, each Owner shall have the nonexclusive right with the other Owners to use and occupy the Property, including the Accommodations located thereon (as tenants in common) and to use and occupy the Accommodations otherwise available, for the purposes permitted by this Declaration provided, however, that use shall be subject to the reservation procedures as set forth herein and in the Rules and Regulations applicable to The Timbers at Christmas Mountain. Use of Accommodations shall be limited by an Owner's designated class of use as hereinafter specifically defined.

C. Reservation Procedure. Prior to use of any Accommodation, an Owner must reserve use of an Accommodation in accordance with this Declaration. The Management Firm, with the approval of the Board of Directors, shall promulgate general guidelines and procedures for the purpose of maximizing the use of the Accommodations by all Owners. The Management Firm shall notify the Owners of the guidelines and procedures (i) at the time that each Owner acquires an interest in the Property, by inclusion in the disclosure materials, (ii) each time there is a material change, by written notice as provided below in Article IX, paragraph C., and (iii) by posting at the Reservation Office and such other locations on the Property as may be designated for notices of general information to Owners. The reservation may be made for such period of time as desired by the Owner, provided, however, that no Owner's use of an Accommodation shall exceed a period greater than 14 consecutive days. Any Owner who has occupied an Accommodation for 14 consecutive days must vacate the Property and all Accommodations for a period of no less than 7 consecutive days following the expiration of the first 14 days before such Owner shall be allowed to occupy the same Accommodation or another Accommodation as may be available for use.

D. Limitation on Use. At the time of purchase of an Undivided Interest, an Owner (other than Declarant) shall be designated as either a Club User, Resort Cabin User or Grand Cabin User, or such additional class User as may be established by the Declarant in respect to Accommodations as might be developed by Declarant in addition to the existing three classes. The rights of Owners shall be as follows:

(1) A Club User shall be entitled to use any of the amenities located on the Recreational Property in accordance with the terms of this Declaration.

(2) A Resort Cabin User shall be entitled to use and occupy any Resort Cabin located on the property, subject to the reservation procedures, and to use any amenities on the Recreational Property, all in accordance with the terms of this Declaration.

(3) A Grand Cabin User shall be entitled to use and occupy any Grand Cabin located on the property, subject to the reservation procedures, and to use any amenities on the Recreational Property, all in accordance with the terms of this Declaration.

(4) The Declarant, by recordation of this Declaration expressly reserves the right to create additional classes of Users in respect to Accommodations other than the designated class Users set forth above.

E. Ownership. Fee simple title to the Property shall be vested in the Owners of Undivided Interests. Each and every Owner of an Undivided Interest does, by acceptance of a deed to an Undivided Interest, covenant and agree that he or she shall not seek partition of his or her Undivided Interest from the remaining Undivided Interests within the Property until such time as the covenants contained herein expire as provided in Article IX hereof. Furthermore, each and every Owner, by acceptance of a deed to an Undivided Interest, does hereby agree

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that no singular Undivided Interest shall be further divided, partitioned, or in any way fractionalized or segmented unless approved in writing by the Declarant, so long as Declarant owns any Undivided Interest.

**F. Use by Owners, Family Members, Guests and Lessees.**

Subject to Section G of this Article II, Owners, their spouses, family members, permitted lessees and guests as authorized by the Association's Rules and Regulations or the managing agent are entitled to their rights and privileges of use as might be accorded a member hereunder; provided, family members, lessees and guests using the Property without the Owner being present during such use, may be limited or regulated by the Association's Rules and Regulations. Family members under this Section shall be defined as those who are related to the Owner by marriage, adoption or blood, and whose primary place of residence is within the same household and who are under the age of 21 years.

**G. Restrictions on Use.** Use of an Undivided Interest in the Property shall be subject to the following:

(1) Except in the case of simultaneous use by a family and as further restricted in subsection (2) of this paragraph, use of an Undivided Interest shall not exceed 6 people at any one time unless approved by the managing agent.

(2) A "family" for the purposes of this Section means any number of related people whose primary residence is within the same household as the Owner or a group, not exceeding 6, of unrelated people. "Related" for purposes hereof means related by marriage, adoption, or blood, and in all cases, having their primary place of residence in the same household as the Owner and being either the spouse of the Owner or under the age of 21 years.

(3) A corporation, partnership, or other legal entity, or multiple Owners (being more than one natural person who are not husband and wife) may use an Undivided Interest only in accordance with this subsection, except as otherwise provided in subsection (4) below. Such corporation, partnership, legal entity or multiple Owners shall, during the first 10 days of a calendar year or within the first 10 days following acquisition of an Undivided Interest designate to the managing agent of the Association or to the Board of Directors of the Association, if no such managing agent is then acting, one representative of the Owner (the "Designated Member"). The Designated Member may use the Undivided Interest on behalf of the Owner for the remaining portion of the year of acquisition or for the calendar year designated following which calendar year the Owner shall have the right to appoint a new Designated Member. The Designated Member, together with his or her spouse and family residing within the same household, shall be authorized to use the Undivided Interest during the designated year.

(4) Notwithstanding the provisions of the preceding paragraph, Declarant expressly reserves unto itself and its authorized successors and assigns, the right and power to authorize others to use the Undivided Interests owned by Declarant and to use and occupy the Accommodations and the Property, through the established reservation procedure, on any basis, temporary or otherwise, as may be authorized by Declarant for use of its Undivided Interest. Such rights of use may be extended by Declarant without sale of an Undivided Interest by Declarant based upon licenses to use, contracts or other use arrangements as may be established by Declarant. In addition, Declarant may authorize use of the Accommodations and the Property (so long as Declarant owns not less than 20 percent of the Undivided Interest in the Property) and the Recreational Property, including all Accommodations thereon, (so long as Declarant shall own the

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Recreational Property) to corporations, partnerships, other legal entities and/or individual users on an entry pass basis, regardless of transfer by Declarant of an Undivided Interest. Such users designated by the Declarant may be entitled to use and occupancy of Accommodations, the Property and the Recreational Property for themselves, their officers, directors, employees, agents and representatives as may be approved by Declarant, for daily or weekly time increments. The Declarant expressly reserves unto itself and its authorized successors and assigns, its agents, employees, representatives and contractors, full and complete dominion and control of the Recreational Property, including all Accommodations located thereon, to the full extent of its ownership.

H. Restrictions on Use of Accommodations. For the purpose of preserving the aesthetics of the Property, protecting the environment of Christmas Mountain Village and promoting cooperation among Owners, the Declarant hereby imposes the following restrictions on the use and occupancy of Accommodations:

(1) No portable latrines or other portable systems for deposit of waste materials are authorized on or in any Accommodation other than as may be permanently attached as a part of a Cabin.

(2) No wood picnic table or wood deck shall be cut, axed, chopped, carved, damaged, mutilated or used for firewood.

(3) All trash, garbage, and rubbish shall be deposited promptly in dumpsters located throughout the Property. No Owner shall allow the accumulation of trash, garbage or rubbish within any Accommodation. Upon termination of use of an Accommodation, the user shall leave such Accommodation in a condition at least as good as the condition as existing upon arrival and the User shall remove all trash, rubbish and garbage to the dumpsters within the Property.

(4) Upon termination of the use of an Accommodation, any fire shall be adequately extinguished so as to prevent the spread of fire and no Owner shall leave a fire smoldering or unattended for any period of time.

(5) No clothes drying lines and no laundry shall be placed on any Accommodation or on the exterior of any Cabin which is within the view of any other Accommodations or the roads throughout Christmas Mountain Village.

(6) No digging, excavation, alteration of terrain, or other activity which shall alter the natural conditions of the Property shall be done by an Owner or User.

(7) Each Owner or User shall assure that any running water available to an Accommodation is adequately turned off upon termination of occupancy of such Accommodation.

(8) No littering shall be permitted within Christmas Mountain Village.

(9) No Owner may use a Cabin or other Accommodation unless and until designated deposits and/or fees for use of such Accommodation (the User Fees) have been paid by such Owner.

(10) No Owner or User may post any signs, including for sale signs, any where within the Property or within any Accommodation; provided, however, that signs and notices may be posted on bulletin boards as may be provided for such purpose by the managing agent.

I. User Fees. Each time that an Owner or User occupies an Accommodation, he or she shall pay to the Association (or its

Management Firm as provided in paragraph C. of Article VII, below) a reservation and overnight fee, the "User Fee," as a pre-condition to the use and occupancy of an Accommodation. Such User Fee shall be payable in advance. All or part of the User Fee may be forfeited, at the option of the Management Firm, in the event that the Owner or User does not use or occupy the Accommodation. Such User Fee is in addition to the Annual Maintenance Fee and is payable each time that an Owner or User reserves an Accommodation, without regard to the length of such occupancy. The User Fee shall be determined by the Board of Directors of the Association from time to time. Each time that the Board of Directors adjusts the User Fee, it and/or the Management Firm will notify each Owner, in the same manner as notice of the budget is given, of the adjustment, prior to its effective date. Any adjustment which increases the User Fee by more than 20 percent shall be subject to approval by a majority of the Owners at their annual meeting or a special meeting called for that purpose.

J. Declarant's Rights. Declarant has reserved unto itself certain rights as contained in this Declaration regarding use of the Property and future development of Christmas Mountain Village. Declarant's reserved rights shall not be diminished, altered or modified by inclusion of any restriction on use of the Property provided herein.

K. Protection of Undivided Interests. Each Owner on behalf of himself or herself and his or her heirs, successors and assigns covenants with each other Owner and with Declarant that each Owner will not have the power or right to execute any instrument or take any action or fail to take any action which will encumber the Undivided Interest of any other Owner. This covenant is hereby incorporated by reference in all future conveyances of the Property and shall run with the land.

### III ASSOCIATION MEMBERSHIP

A. Timbers at Christmas Mountain Association. Every Owner of an Undivided Interest within the Property shall automatically, upon becoming an Owner of an Undivided Interest, be a member of the Association, for as long as he or she owns an Undivided Interest. Membership shall be appurtenant to and may not be separated from ownership of an Undivided Interest. An Owner, including Declarant, within The Timbers at Christmas Mountain shall have one membership for each Undivided Interest owned by such Owner.

B. Voting Rights. One vote may be cast with respect to each Undivided Interest owned by each Owner including Declarant. Each vote for each Undivided Interest owned by an Owner including Declarant is equal to each other vote for each Undivided Interest owned by each Owner including Declarant. In the event there is more than one Owner of an Undivided Interest, the vote for such Undivided Interest shall be cast as the Owners thereof among themselves determined and in the event that the Owners cannot reach a consensus as to how the vote shall be cast, no vote shall be counted for such Undivided Interest. The Association is authorized to accept the vote for an Undivided Interest from one Owner in the event of multiple ownership of an Undivided Interest if it is represented to the Association that such person is the lawful representative of all Owners of that Undivided Interest and no objection is raised by any other Owner of such Undivided Interest. Exercise of voting rights shall be further regulated by the provisions of the By-Laws of the Association.

C. Declarant Control. Declarant does hereby reserve and shall have the power to appoint, remove and replace the members of the Board of Directors of the Association provided that when Owners other than Declarant own 15 percent or more of the Undivided Interests in the Property, said Owners other than

Declarant may elect no less than one-third of the members of the Board of Directors of the Association and the Owners other than Declarant may elect no less than a majority of the members of the Board of Directors of the Association upon the first to occur of any of the following:

(1) Three years after 50 percent of the Undivided Interests in the Property have been conveyed to Owners other than Declarant.

(2) Three months after 90 percent of the Undivided Interests have been conveyed to Owners other than Declarant.

(3) All of the Undivided Interests that will ultimately be operated by the Association have been completed, some of them have been conveyed to Owners other than Declarant, and none of the others is being offered for sale by the Declarant in the ordinary course of business.

(4) Some of the Undivided Interests have been conveyed to Owners other than Declarant and no other Accommodations are being constructed or offered for sale by the Declarant in the ordinary course of business.

D. Christmas Mountain Village Property Owners' Association, Inc. Christmas Mountain Village is the subject of a two-tiered owners association format, of which The Timbers at Christmas Mountain is a part. Owners of Undivided Interests in the Property must become members of not only the Association but also of the Christmas Mountain Village Property Owners' Association, Inc. (the "POA") which is responsible for maintaining certain facilities and property in Christmas Mountain Village which are used in common with other Owners of real property within Christmas Mountain Village. The Association is responsible for the operation and maintenance of The Timbers at Christmas Mountain and the Accommodations located thereon as described in this Declaration. By purchasing an Undivided Interest, each purchaser of an Undivided Interest becomes a member in both of these two Associations. The POA oversees maintenance and operation of certain facilities which are important to the entire Christmas Mountain Village, including the Recreational Property, and has the power to levy maintenance assessments on the sub-associations in Christmas Mountain Village, including the Association, in accordance with the POA Articles of Incorporation, By-Laws, and other documents. On the subordinate level, the Association is responsible for administering those affairs related to The Timbers at Christmas Mountain and may levy assessments against its individual members in accordance with the provisions of this Declaration. The POA is vested with primary authority and control over and ownership of all real and personal property known as the common areas of Christmas Mountain Village, including, but not limited to, the Recreational Building, tennis courts, hotel and recreational areas which Developer may include for the benefit of all Owners. The POA is the organization with the sole responsibility to make and collect assessments from the sub-associations in Christmas Mountain Village, including the Association, in accordance with the provisions of the POA document, which assessments will be used only for the purposes set forth in the POA documents. The assessments levied by the POA will be paid by each sub-association, including the Association, from the annual maintenance fee charged to Owners. By acceptance of conveyance of title to an Undivided Interest, each Owner expressly assumes the personal obligation to make payment of all assessments and other charges allocable to his Undivided Interest as may be or become due and payable to the Association, including that portion of the assessment allocated to maintenance fees assessed against the Association by the POA. This obligation to pay is secured by a lien or lien right in favor of the Association as to each and every Undivided Interest in the Property from the date of the initial recordation of this Declaration in the office of the Register of Deeds for Sauk County, Wisconsin. Said lien or lien right is superior in all



respects to all rights of homestead which may arise in favor of any Owner. Any Owner's failure to timely make these payments to the Association may result in foreclosure of the lien or lien right against the Owners' Undivided Interest.

The Association shall be subordinate in all respects to the POA but shall retain all the rights and privileges, as more particularly described herein, including, without limitation, the right to levy assessments on all Owners owning Undivided Interests in the Property.

#### IV PROPERTY RIGHTS

A. Recreational Property. Subject to the restrictions herein, an Owner shall have a nonexclusive easement to use the Recreational Property. Such easement shall be usable subject to the provisions of this paragraph and so long as the Owner is current in all amounts due to the Association, the Declarant, and on the Owner's land contract obligation, if any. Declarant reserves the right, but shall not be obligated, to improve the Recreational Property by addition of amenities or facilities as determined by Declarant. The easement provided herein is transferable only to the extent of transfer of an Undivided Interest. The Recreational Property may be used by others in addition to Owners of Undivided Interests. The Declarant may from time to time reasonably limit the exercise of the easement provided for herein by, for example, limiting the hours of use of the easement, seasonal use, and the number of people who may make use of the Recreational Property at any one time. The Recreational Property may only be used for its normally intended use as determined by Declarant. The ownership of an Undivided Interest shall not create any ownership interest in the Recreational Property in favor of an Owner other than the easement of use as provided for herein. Use of Accommodations within the Recreational Property shall be subject to the terms of this Declaration and the general guidelines and policies and reservation procedures of the Declarant.

B. Easement of Access. Subject to the restrictions herein and the payment of the annual maintenance fee as hereafter provided, each Owner of an Undivided Interest in the Property shall have an easement, appurtenant to his Undivided Interest in the Property across, over and upon the Recreational Property for purpose of ingress and egress to the Property, to Christmas Mountain Road and County Highway H. Such easement shall be limited in location on the Recreational Property to such areas as provided by Declarant across the Recreational Property which are normally intended for use as paths and roadways across, over and upon the Recreational Property, to be located and hereafter relocated as determined by the Declarant, in its discretion.

C. Annual Maintenance Fee. By acceptance of conveyance of an Undivided Interest in the Property (as evidenced by a deed or land contract) each Owner of an Undivided Interest covenants and agrees to pay an Annual Maintenance Fee for each Undivided Interest owned for use of the Recreational Property. The Annual Maintenance Fee shall be imposed by the Declarant (or its designated successors or assigns to the Recreational Property) to meet the expenses of managing and maintaining and as are otherwise attributable to the Recreational Property. The Annual Maintenance Fee shall be established by Declarant (or its designated successors or assigns) on an annual basis. The Annual Maintenance Fee may be increased during the first 60 days of each fiscal year (June 1-May 31) in an amount not exceeding the increase in the Consumer Price Index for All Items, for Urban Wage Earners and Clerical Workers - Milwaukee as published by the United States Department of Labor or 10 percent, whichever is greater. The Annual Maintenance Fee shall be paid by each Owner on a monthly, semi-annual or annual basis and, if paid annually, may be subject to a discount at Declarant's option.

Each Owner of an Undivided Interest hereby covenants and agrees that the Annual Maintenance Fee provided above shall be an appurtenance to the easement of use herein created over, to and across the Recreational Property. Such easement is an appurtenance to each Owners' Undivided Interest. Each Owner further covenants and agrees that each and every conveyance of an Undivided Interest shall be made subject to the assumption by the successor in interest to the Owner to pay the Annual Maintenance Fee as herein provided to the Declarant or its designated successors and assigns of the Recreational Property and the reference in any such conveying instrument to the assumption of this Annual Maintenance Fee shall be made as a condition precedent to the transfer of any such interest by the Owner. This is a covenant for the benefit of the Declarant and its designated successors and assigns to the Recreational Property and it is expressly acknowledged and agreed that such beneficiaries are intended beneficiaries of this covenant and may enforce payment of the Annual Maintenance Fee by such Owner and the assumption of such Annual Maintenance Fee by any successor in title or interest to such Owner. Each Owner, by acceptance of a conveyance of an Undivided Interest, expressly consents to the jurisdiction of the State of Wisconsin, Sauk County for the enforcement of all obligations set forth herein, whether or not such consent shall be expressed in any such conveyance.

No Owner may exempt himself, his successors or assigns, from the obligation to pay the Annual Maintenance Fee above provided by waiver of the use and enjoyment of the Recreational Property or by the abandonment of his or her Undivided Interest. By acceptance of conveyance of an Undivided Interest, each Owner covenants and agrees to pay to the Declarant the Annual Maintenance Fee, whether or not expressed in the instrument of conveyance, in accordance with the terms and provisions of this paragraph during his ownership of the Undivided Interest. Whenever such Annual Maintenance Fee is not paid when due, there shall be imposed a late fee of \$10.00 or 10 percent of the amount due, whichever is greater. Each such assessment and late fee, if not paid when due, and interest at the highest rate permitted by Wisconsin Statutes, and together with costs of collection, including reasonable attorneys' fees, shall be the personal obligation of the Owner against whom assessed and shall be secured by a lien or lien right in favor of Declarant having the priority herein established. Such lien shall be superior in all respects to all rights of homestead which may arise in favor of any Owner as well as the priorities hereinafter set forth.

Any lien arising hereunder for the Annual Maintenance Fee shall continue in full force and effect until fully paid or otherwise discharged. The lien for an unpaid Annual Maintenance Fee against an Undivided Interest may be foreclosed in the same manner as is authorized by the Statutes of the State of Wisconsin for the foreclosure of mortgages on real property, as provided in Section 707.37, Wisconsin Statutes. The Declarant shall have the right to bid on the Undivided Interest in a foreclosure sale and may acquire, hold, lease, mortgage and convey the Undivided Interest acquired at such sale. The lien herein provided may be filed by Declarant in a form substantially similar to the form provided for the lien of the Association assessments as set forth in Article VIII, but made by and for the benefit of Declarant and executed by the Declarant or its authorized agent or attorney at law.

The sale or transfer of an Undivided Interest shall not affect the liens set forth in this section. Any grantee shall be jointly and severally liable for the portion of any Annual Maintenance Fee or charge assessed against such Undivided Interest as may be due and payable at the time of conveyance, but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor. If a grantor or grantee shall request and receive from Declarant a statement of Annual Maintenance Fees payable with respect to the Undivided Interest, such grantee shall not be liable for nor shall the Undivided Interest conveyed be subject to a lien for

any unpaid Annual Maintenance Fees against the Undivided Interest prior to the date of the statement in excess of the amount set forth in such statement.

If any delinquent Annual Maintenance Fee or portion thereof is not paid to Declarant within 10 days after written notice is given to the Owner, Declarant shall have the right to invoke any or all of the following remedies:

(1) The entire unpaid balance of the Annual Maintenance Fee may be accelerated at the option of the Declarant and may be declared due and payable in full, and foreclosure proceedings may be instituted to enforce the lien above provided;

(2) All rights of use of the Property, the Cabins, other Accommodations and/or the Recreational Property may be suspended;

(3) The Declarant may bring an action at law against the Owner personally obligated to pay the Annual Maintenance Fee, in which event interest and costs of the collection (including court costs, expenses of sale, any expenses required for the protection and preservation of the Undivided Interest, and actual reasonable attorneys' fees) shall be added to the Annual Maintenance Fee and be the obligation of the Owner;

(4) The Declarant may foreclose its lien against such Owner's Undivided Interest in which event interest and costs of collection (including court costs, the expenses of sale, any expenses required for the protection and preservation of the Undivided Interest, and actual reasonable attorneys' fees) shall be added to such lien.

Any notice to Owner shall be sent by certified mail, return receipt requested, at the Owner's last known address as contained in the records of the Declarant, and shall specify the amount of the Annual Maintenance Fee then due and payable, including any interest accrued thereon.

**D. Declarant Reserved Rights.** Each Owner hereby expressly acknowledges that the easement for the use of the Recreational Property herein provided for each such Owner is not exclusive to such Owner and the Declarant has reserved unto itself and its designated successors and assigns rights of use of their Recreational Property, including the right to grant additional easements, licenses or rights of use and enjoyment to other parties.

**E. Use by Owners.** Subject to the Rules and Regulations, the easement herein granted to each Owner to use the Recreational Property may be used and enjoyed whether or not an Owner is in occupancy at an Accommodation.

**F. Expansion of Recreational Property.** The Declarant, as owner of the Recreational Property, shall have the unilateral right and option (but not obligation) from time to time to expand the Recreational Property and to improve all or part of the Recreational Property or to add amenities thereto which may be designated by the Declarant as Recreational Property usable by the Owners of the Undivided Interests in the same manner as the amenities on the Recreational Property existing on the date of this Declaration. To effect such expansion, Declarant shall file in the Sauk County, Wisconsin, Register of Deeds office a certified survey map or plat map describing the additional recreational property and the improvements thereon located and extending the Owner's easements of use as provided hereunder for such additional recreational property. The easements granted to the Owners may specify such specific use restrictions and other covenants, conditions and restrictions applicable to the expanded Recreational Property as Declarant may, in its sole discretion, determine.

V

Declarant shall also have the unilateral right to transfer to one or more persons the right and option to expand the Recreational Property as herein reserved to Declarant, provided, such assignment shall not remove Declarant's right and privilege to expand the Recreational Property.

V  
EXPANSION OF TIMBERS AT CHRISTMAS MOUNTAIN

A. Timbers at Christmas Mountain. On the date of the execution of this Declaration, the number of Cabins located or to be located on the Property is shown on the plat map, Exhibit A. Declarant reserves unto itself and its designated successors and assigns, the right and privilege, but not the obligation, to increase the number of Accommodations located on the Property or otherwise available for use by Owners to a maximum total number of 2,500 Accommodations. Nevertheless Declarant has no obligation to increase the number of Accommodations as may be available to Owners unless and until the number of Owners other than Declarant warrants (in Declarant's sole discretion) an increase. Declarant shall determine the type, variety and number of Accommodations subject to the following:

(1) Declarant may increase the number of Accommodations in as many phases as desired by Declarant or may increase the number of Accommodations by one increase subject to the limit of total Accommodations as set forth above.

(2) For Resort Cabin Owners and Grand Cabin Owners, the ratio of Resort Cabins to Resort Cabin members and Grand Cabins to Grand Cabin members shall not exceed 1 to 17.

(3) No approval of any Owner shall be necessary for the Declarant to increase the number of Accommodations.

(4) To increase the number of Accommodations, Declarant shall revise and supplement the plat, Exhibit A, showing additional Accommodations as existing within or available to Owners of the Property. Upon revision of such plat, the revised plat shall be included within the definition of "Plat" as defined in Article I, paragraph (k) of this Declaration. Thereafter, for all purposes and considerations hereunder, the additional Accommodations shall be considered "Accommodations" as defined and referenced throughout this Declaration.

(5) Notwithstanding the provisions hereof, the Declarant shall not be obligated to improve the Property beyond the improvements as presently existing. If the Declarant determines to improve the Property with additional Accommodations, or otherwise make available additional Accommodations, the type, variety and mix of such Accommodations shall be determined in the sole discretion of Declarant.

(6) Declarant's option as above provided shall continue for a period of ten years from the date of recordation of this Declaration. Any extension of the foregoing option shall require the affirmative of the Board of Directors of the Association.

B. Additional Sections. Notwithstanding any other provisions herein to the contrary, Declarant may, but shall not be obligated, to develop other sections of Christmas Mountain Village outside the boundaries of the Property.

VI  
EASEMENT RIGHTS

Declarant hereby reserves for the benefit of itself, its duly authorized agents, representatives and employees and its

designated successors and assigns an easement on, upon, over, under and across the Property for the purpose of making improvements in the Property, including additional Accommodations, and for the purpose of doing all things reasonably necessary and proper in connection therewith, including, but not limited to, construction, excavation, landscaping, terrain alteration, sloping, installation of water and utility lines, construction of Accommodations, roads and facilities, and for the purpose of development of other property owned by Declarant, including the Recreational Property.

Declarant reserves for the benefit of all of the Property within Christmas Mountain Village on behalf of itself, its duly authorized agents, representatives and employees and its designated successors and assigns, a nonexclusive easement of access, ingress, egress and travel over and upon all parts of the Property, including, but not limited to, all roads and paved areas thereon.

## VII

### TIMBERS AT CHRISTMAS MOUNTAIN ASSOCIATION

A. Duties. The Association shall have the following responsibilities and obligations:

(1) To keep, maintain, repair and improve the Property, in as good a condition as now exists or may exist in the future, including all Accommodations therein located and all furnishings located within Accommodations on the Property.

(2) To maintain casualty and liability insurance for the improvements located on the Property and to reconstruct and repair such improvements in the event of damage to or destruction thereof.

(3) To maintain the Property free from noxious weeds, underbrush and pests and to remove any unsightly or obnoxious things therefrom.

(4) To maintain public liability insurance with respect to the operations of The Timbers at Christmas Mountain, with cross-liability endorsement to cover negligence by any Owner resulting in damage or injury to any other Owner. Such comprehensive general liability insurance shall cover death, bodily injury and property damage arising out of or in connection with the use of Accommodations by Owners, their guests, and tenants.

(5) To operate and maintain the water supply, electrical, and other utility systems for The Timbers at Christmas Mountain to the extent such water supply or utility systems are not operated and maintained by a public facility or any other party.

(6) To enforce the covenants, conditions and restrictions herein contained and such Rules and Regulations as the Association might now or hereafter adopt.

(7) Subject to the terms hereof, to adopt, amend, and repeal Rules and Regulations governing the operation of The Timbers at Christmas Mountain.

B. Rights. The Association, in its sole and absolute discretion, shall have the authority to exercise the following additional rights:

(1) To acquire by gift, purchase or otherwise and to sell, lease, transfer, dedicate for public use, or otherwise dispose of real and personal property.

(2) To establish, amend, and repeal Rules and Regulations governing the use of The Timbers at Christmas Mountain and the sanctions, including monetary fines, for violation thereof.

(3) To contract with others for the maintenance and operation of The Timbers at Christmas Mountain.

C. Management. As of the date of this Declaration, the Association has contracted with Declarant for performances of the Association's duties with respect to the management and maintenance of the Property. The contract for management and maintenance of the Property authorizes the Declarant to perform the duties of the Association, including administration of the reservation system for use of Accommodations in consideration of payment to Declarant of all amounts received as reservation and overnight fees for use of the Cabins, including the Resort Cabins and Grand Cabins and other Accommodations subject to reservation or overnight fees. The said contract is initially for a three-year term, which shall be automatically renewable for additional three-year terms unless terminated by one of the parties giving notice to the other no later than 60 days prior to the commencement of the renewed term. Notwithstanding the foregoing, the Association shall have the right to terminate such contract upon 90 days notice as provided in Section 707.32, Wisconsin Statutes. The Declarant shall charge no fee to the Association for its services as managing agent other than fees received for reservations and overnight Accommodations as provided above; provided, however, that at all times the Declarant shall receive the Annual Maintenance Fee for use of the Recreational Properties as provided in Article IV, above.

D. Declarant's Reserved Right. From and after the date at which Owners other than the Declarant have the right to appoint a majority of the Board of Directors of the Association, so long as at least 20 percent of the Undivided Interests in the Property are still encumbered by the original land contracts evidencing the conveyance by Owner or the Declarant remains on recourse for or otherwise holds obligations secured by at least 20 percent of the Undivided Interests in the Property, the Board of Directors shall, within 30 days after receipt of written notice from Declarant, employ a managing agent to manage the operation and affairs of the Association. The identity of such managing agent shall be subject to the approval of Declarant. Such management firm shall, by the terms of a written agreement, be the agent of the Board of Directors and of the Association. It shall be expressly permissible for Declarant or any firm affiliated with Declarant to be employed as a management firm pursuant to this paragraph.

## VIII ASSESSMENTS

A. Creation of Personal Liability and Priority of Lien. Each Owner, by acceptance of a deed or other conveyance of an Undivided Interest, covenants and agrees to pay to the Association the assessments or charges, together with interest thereon, as shall be fixed or assessed against his or her Undivided Interest during his or her ownership thereof by the Association in accordance with the terms and provisions of this Declaration, whether or not such conveyance expresses this covenant. All such assessments and charges, together with interest thereon and the costs of collection thereof (including actual, reasonable attorneys' fees) shall be the personal obligation of each Owner from the time the same become due and payable and shall be a charge against and continuing lien with power of sale and favor of the Association upon such Undivided Interest. Such lien shall be prior and superior to all other liens whatsoever except only (i) the lien of real estate taxes, (ii) the lien for the Annual Maintenance Fee payable to Declarant and (iii) the lien of any land contract vendor's interest or first mortgage

upon or against such Undivided Interest. Such lien shall be perfected by filing of record in the office of the Register of Deeds for Sauk County, Wisconsin, a claim of lien. Each Owner, by acceptance of a deed or other conveyance of an Undivided Interest expressly consents to the jurisdiction of the State of Wisconsin, Sauk County, for the enforcement of all obligations set forth herein. Such a claim of lien shall also secure all assessments or portions thereof which become due or thereafter until the claim of lien is satisfied of record. The claim of lien shall be in the form specified in Section 707.37(5), Wisconsin Statutes.

B. Effective Transfer of Undivided Interest. The sale or transfer of an Undivided Interest shall not affect the lien set forth in Section A above, and any grantee shall be jointly and severally liable for the portion of any assessment or charge assessed against such Undivided Interest as may be due and payable at the time of conveyance but without prejudice to the right of the grantee to recover from the grantor the amounts paid by the grantee therefor. If, however, a grantor or grantee shall request and receive a statement from the Association as provided in Section C of this Article, such grantee, his successors and assigns, shall not be liable for nor shall the Undivided Interest conveyed be subject to a lien for any unpaid assessments against such Undivided Interest in excess of the amount set forth in such statement, if any, assessed prior to the date of the statement. Anything in this Declaration to the contrary notwithstanding, in the event that any holder of a first mortgage or a vendor's interest in land contract shall come into possession of any Undivided Interest by virtue of the exercise of a power of sale, judicial foreclosure, or conveyance in lieu of foreclosure in connection with such mortgage or land contract, such holder shall not be liable for, nor shall such Undivided Interest be subject to a lien for any assessment chargeable to such Undivided Interest on account of any period prior to the time such holder shall so come into possession of such Undivided Interest. Such unpaid assessment or assessments shall be deemed to be a common expense collectable from all Owners, including such holder.

C. Statement of Assessment. Each Owner of an Undivided Interest, any prospective Owner of an Undivided Interest, and any mortgagee, prospective mortgagee, or lender secured by an Undivided Interest shall have the right to obtain from the Association a statement of the amount of any assessment payable with respect to a particular Undivided Interest, which statement shall also state whether or not any portion of said assessment is delinquent. The Association may charge a fee, not to exceed \$10.00, for the issuance of any such statement, the payment of which fee shall be a condition precedent to the obligation of the Association to issue such statement. The Association shall issue such statement within 30 days after the receipt of a written notice that such statement be issued.

D. General Assessments. Except as hereafter expressly provided, the amount of all common expenses of the Association, less the amount of any common profits as may be, in the discretion of the Association, applied to the payment thereof, shall be assessed against each Undivided Interest in the Property subject to assessment, and the Owner thereof shall be personally liable for such assessment. The Declarant shall be exempt from all such assessments during the period of its ownership of any Undivided Interest.

E. Personal Charges. The term "Personal Charge(s)" means any expense resulting from the act or omission of any Owner, Designated Member or Guest using or occupying the Property, including any special services or supplies attributable to the use or occupancy of the Property. Personal charges also means the cost to repair any damage to an Accommodation or other portions of the Property or to repair or replace any common furnishings located therein on account of loss or damage caused by any Owner, Designated Member or Guest (to the extent not reimbursed by insurance proceeds) and the cost to satisfy any expense

to any of the other Owners or to the Association due to any intentional or negligent act or omission of the Owner, Designated Member or Guest, or resulting from the breach by any such Owner, Designated Member or Guest of any of the provisions of this Declaration, the By-Laws, or the Rules and Regulations. Such personal charges shall be payable by the Owner, Designated Member or Guest by submitting payment at the time of departure for total personal charges incurred if the Association or its manager is able to determine the amount of personal charges at that time. Personal charges which are not ascertainable at the time of departure shall be payable upon receipt of a statement therefor.

F. Common Expenses. The common expenses assessable to the Owners of the Property shall be all of the expenditures which are made or incurred by or on behalf of the Association in connection with the exercise of its powers and responsibilities as they relate to the Property and shall include, without limitation, the following:

(1) The expense of maintaining, refurbishing, operating and repairing the Property and the Accommodations and/or common furnishings located thereon.

(2) Charges for utilities serving the Property and charges for other services provided to the Property, including, but not limited to, maintenance, upkeep and operational expenses associated with any water, electricity, phone service or other utility service to the Property and facilities available for use by Owners.

(3) Management fees and expenses of administration, including legal and accounting fees.

(4) The cost of any master, blanket, or other insurance policies purchased for the benefit of all Owners of Undivided Interests in the Property.

(5) Such other expenses as may be determined from time to time by the Association to be common expenses, including, without limitation, taxes and governmental charges such as sewer charges, other than real property taxes.

(6) Any assessments imposed on the Property by any governmental authority or agency.

G. Annual Budget and Assessment. No less than 60 days prior to the commencement of each fiscal year as established by the Association, the Association shall fix and determine the sum or sums necessary and adequate for the common expenses of the Condominium and from the same propose an annual budget of common expenses to be mailed to all Owners of Undivided Interests not less than 30 days prior to the meeting at which the budget will be considered, together with a notice of that meeting. The Owners of Undivided Interests shall be given written notice of the time and place at which the meeting of the board of directors shall be held to consider the proposed annual budget of common expenses, and such meeting shall be open to the Owners. If the annual budget (exclusive of that portion of the annual budget attributable to real and personal property taxes and insurance) and the amount of the annual assessment thus established by the Association exceeds by more than 20 percent the amount of the annual budget and the annual assessment for the immediately preceding fiscal year, said annual budget and the amount of the annual assessment shall be subject to approval by a majority of Owners of Undivided Interests, other than Declarant. If the annual budget established by the Association, or approved by the Owners (if such approval is required as herein provided) is inadequate for any reason during the course of the fiscal year, the Board of Directors may amend such budget and such budget shall be subject to Owner approval only if such amended budget exceeds by more than 20 percent the amount of the annual budget for the immediately preceding fiscal year, except



as specifically provided in this Declaration. Except as otherwise determined by the Association, each Owner shall pay the annual assessment to the Association in advance on or before June 1 of each year. In addition, any fees, charges, and other amounts which shall be payable by an Owner to the Association shall be added to the assessment and shall, unless paid at the same time as incurred, or at some other time determined by the Association, be due and payable as part of the installment of the assessment next due.

Notwithstanding the foregoing, so long as the Management Agreement between The Timbers at Christmas Mountain Association and Dellona Enterprises, Inc. dated July 26, 1978 remains in effect, Dellona Enterprises, Inc., the "Management Firm", is empowered to charge and collect all "User Fees" for the use of the Accommodations and is responsible for the payment of the Common Expenses of the Association. The authority and responsibility of the Management Firm with respect to the collection of User Fees and payment of Common Expenses shall be governed by Section 9 of the said Management Agreement, and reference is hereby made to the said Management Agreement as to such authority and responsibility.

H. Application of Common Profits. Except as provided above, all funds received and all properties acquired by the Association on behalf of the Owners of Undivided Interests in the Property, and the proceeds thereof, including any excess of assessments under this Article, shall be held for the benefit of the Owners as common profits. The Association, by Board resolution, and without the necessity of a vote of the Owners, shall determine to either apply such excess (or any portion thereof) against and reduce the subsequent year's assessments or allocate such excess (or any portion thereof) to one or more reserve accounts of the Association.

I. Nonpayment of Assessment. In addition to all other remedies provided by law, the Association may enforce collection of all delinquent assessments or such other amounts as may be owing by Owners by any of the means hereafter provided in this section. Any assessment or portion thereof not paid when due shall be deemed delinquent. No owner or designated member may waive or otherwise avoid liability for an assessment by nonuse or abandonment of the Undivided Interest, the Property, or any part thereof.

Payment of the common expenses in accordance with the terms of this Declaration is a condition precedent to an Owner's use, reservation, occupancy, or enjoyment of the Property and other rights associated with ownership of an Undivided Interest. Accordingly, so long as not permitted by applicable law, no Owner may use his Undivided Interest in the event he has outstanding any delinquent common expenses or personal charges. Each Owner hereby agrees to this covenant and agrees to a waiver of any rights of use of his Undivided Interest in the event that he has outstanding any delinquent common expenses or personal charges.

If any common expense, personal charge or assessment or portion thereof remains delinquent for 10 days after written notice is given to Owner to make such payment, the Association shall have the right to invoke any or all of the following remedies:

(1) Any unpaid balance of the assessment may be accelerated at the option of the Board of Directors and may be declared due and payable in full, and foreclosure proceedings may be instituted to enforce the lien as above provided.

(2) The voting rights appurtenant to the Undivided Interest may be suspended.

(3) The right of the Owner to use the Property or any Accommodation, amenities or facilities may be suspended.

(4) The Association, on behalf of the Owners, may bring an action at law against the Owner personally obligated to pay the same.

(5) The Association may foreclose the lien above provided against such Owner's Undivided Interest in the Property in the same manner as the lien of a mortgage against real estate is foreclosed. In the event of such foreclosure, all rights associated with the ownership foreclosed shall be deemed inseparable from the Undivided Interest and shall go with the title of the Undivided Interest.

The notice above provided shall be sent to the Owner by certified mail, return receipt requested, at such Owner's last known address as contained in the records of the Association and shall specify the amount of the assessment then due and payable, including any interest accrued thereon.

J. Interest. Any delinquent assessment, common expense, or other charge not paid when due shall bear interest from the date of delinquency until paid at the highest rate of interest permitted under Wisconsin law or, if no rate is so established, at the rate of 12 percent per annum.

K. Collection. All payments on account shall be applied first to the costs of collection, then to interest, and then to the assessment liens, in chronological order. Each Owner grants the Association the right and power to bring all actions against him personally for the collection of such assessments as a debt and to foreclose the aforesaid lien in the matter set forth above.

L. Limitations on Assessments. The power and authority of the Association to establish, levy and collect assessments with respect to Undivided Interests in the Property shall be subject to the following limitations:

(1) Any proposed assessment for capital improvements to the Property which exceeds 10 percent of the total budgeted expenses for the fiscal year in which such assessment is proposed (other than the repairing, rebuilding or reconstruction of any portion of the Property which is damaged, destroyed or threatened by casualty) must be approved (i) by a vote of the majority of Owners of Undivided Interests, and (ii) by the Declarant, so long as Declarant retains ownership of at least one Undivided Interest.

(2) The initial annual assessment applicable to an Undivided Interest for the fiscal year 1989-1990 is as set forth on the budget, attached hereto as "Exhibit C" and made a part hereof.

M. Commencement of Assessments. Annual assessments (and special assessments, if any) shall commence against each Undivided Interest upon purchase of such Undivided Interest by an Owner other than Declarant. At the time of conveyance to an Owner, the assessment shall be prorated for the balance of the Association's fiscal year. With the exception of special assessments, Declarant agrees to either (i) pay any portion of the common expenses of the Property not covered by assessments paid by the Owners (other than Declarant), (ii) provide services to the extent that the needs and requirements of the Property are met when combined with the assessments paid by the other Owners, or (iii) in any given year, pay the same assessments as levied against Owners other than Declarant. Special assessments shall be allocated to Declarant only in the event of Declarant's approval, in writing, of a special assessment against Declarant's Undivided Interests.

IX  
GENERAL PROVISIONS

A. Duration. The covenants, conditions and restrictions established hereby shall run with the land and shall inure to the benefit of and be enforceable by the Association or any Owner for a period of 20 years from the date this Declaration is recorded in Sauk County, Wisconsin, at which time the same shall be automatically renewed for successive periods of 10 years unless, the then Owners of at least two-thirds (2/3) of the Undivided Interests and the Declarant (if Declarant owns any Undivided Interests) elect to terminate the same, as evidenced by a duly executed and recorded instrument.

B. Amendments. This Declaration may be amended by an instrument signed by the Declarant (so long as it retains a right to appoint a majority of the directors) and Owners of at least two-thirds (2/3) of the Undivided Interests. The Declarant, in its sole discretion, may amend the provisions hereof establishing a formula for Owners' votes, assessments or ownership interests for each Undivided Interest owned if, and only if, (i) Declarant retains an ownership interest in Christmas Mountain Village and/or the Recreational Property and (ii) the amendment is required by an institutional lender advancing funds for the purchase of an Undivided Interest.

C. Notices. Except as otherwise provided herein, any notice to be given to an Owner or the Declarant under the provisions of this Declaration shall be deemed to have been properly given on the date deposited in the United States mail and addressed to such Owner at his last known address as shown in the records of the Association.

D. Enforcement. The covenants and restrictions contained herein may be enforced by a proceeding at law or in equity. The Association's failure to enforce any of the covenants or restrictions contained herein shall not be deemed a waiver of the right to do so thereafter. The Association may also impose a monetary penalty for the violation of any covenant or restriction contained herein or of any rule or regulation of the Association. A monetary penalty shall not exceed \$50.00 per violation or \$50.00 per day for a continuing violation. A monetary penalty for violation of the covenants, restrictions, rules or regulations of the Association shall be added to the assessment owed to the Association by the Owner and become a part of the lien as provided in Article VIII above. Furthermore, in the event that an Owner violates a provision of this Declaration or of any rule or regulation of the Association, the Owner's rights and privileges in The Timbers at Christmas Mountain and the Recreational Property may be suspended for the period of the violation and for a period of up to 10 days thereafter. An Owner may not be subject to a monetary penalty or suspension of the right of use until he or she has been given notice and the opportunity to refute or explain the charges against him or her in person or in writing to the Board of Directors.

E. Severability. If any provision of this Declaration is for any reason held to be invalid or unenforceable as to any person or circumstance, such invalidity or unenforceability shall not affect any other persons or circumstances and the provisions hereof shall in all other respects remain valid and enforceable.

F. Binding Effect. Each Owner, upon acceptance of a conveyance of an Undivided Interest, shall be deemed to have agreed to and be bound by the terms and provisions of this Declaration, the Articles of Association, By-Laws, Rules and Regulations of the Association.

G. Reservation Procedure. The reservation procedure for use of Accommodations within the Property or otherwise available for use by Owners shall be as provided in this Declaration, and as amplified by the then current general guidelines and policies,

provided that in the event of a conflict in the terms of the general guidelines and policies and this Declaration, the terms of this Declaration shall control.

H. Professional Assistance. The Association may employ attorneys, accountants and other professional persons as it deems necessary to assist in the management of The Timbers at Christmas Mountain and the Accommodations located thereon or available for use by Owners.

I. Condition Precedent to Use of Accommodation. No Owner may make a reservation to use an Accommodation or use amenities of The Timbers at Christmas Mountain or the Recreational Property in the event such Owner is delinquent on the payment of any amounts due the Association, the Declarant or the holder of the Owner's land contract.

J. Exchange or Reciprocal Use Privileges. The Declarant may, but shall not be required to, arrange on behalf of Christmas Mountain Village and the Property one or more exchange or reciprocal use networks for participation by Owners respecting use of the Property and other resorts. Continuation of such network, if arranged, shall be subject to continued qualification of the Property within such program.

X

SALE OF THE PROJECT;  
SUBORDINATION OF TENANCY IN COMMON ATTRIBUTES

A. Right of Association to Sell. The Association shall have the right, for and on behalf of all Owners of Undivided Interests in the Property, to sell all or any portion of the Property upon the affirmative vote of (i) the Owners of at least 80 percent of the Undivided Interests in the Property, exclusive of any Undivided Interests owned by Declarant and (ii) the Declarant, so long as the Declarant owns an Undivided Interest in the Property. This Article X, Section A, may not be amended until such time as Declarant no longer owns any Undivided Interests in the Property, notwithstanding the provisions for amendment provided in Article IX above.

B. Consummation of Sale. In the event that the required vote under the preceding section of this Article is obtained and all other conditions of this Article are met, the Association shall effect such sale and do all acts and execute and deliver all documents necessary and convenient to consummate said sale. The Association shall execute and record in the office of the Register of Deeds for Sauk County, Wisconsin a certificate certifying that the conditions of this Article have been satisfied and that the Association is, therefore, authorized to execute and deliver all deeds and other instruments necessary or convenient to effect the sale of all or a portion of the Property. Recordation of such certificate shall constitute conclusive evidence that the Association is authorized and empowered to sell and transfer title to all or a portion of the Property for and on behalf of the Owners.

C. Power of Attorney. By accepting title to an Undivided Interest in the Property, the Owner, for himself or herself and for his or her heirs, successors and assigns, hereby makes, constitutes and appoints the president of the Association as his true and lawful agent and attorney-in-fact for and in his or her name, place and stead, and for his or her use and benefit, to effect any sale of all or any portion of the Property and to do all acts, execute and deliver all deeds or other instruments necessary or convenient to sell and convey title to all or such portion of the Property as the Association has determined to sell and otherwise to carry out the purposes of this Article.

D. Sale Proceeds. The net proceeds derived from the sale of all or a part of the Property shall be distributed to the

Owners only after the Association has provided for any unpaid debts or liabilities of the Association or the Owners. Each Owner's share of such proceeds shall be determined by multiplying the total amount of such proceeds by a fraction, the numerator of which is the number of Undivided Interests owned by such Owner, and the denominator of which is the total number of Undivided Interests owned, including those owned by Declarant. If less than all of the Property is sold, the net proceeds of such sale shall be deemed to be undistributed common profits of the Owners and shall be used by the Association as provided in Article VIII above.

E. Sale by Unanimous Consent. Notwithstanding any other provision of this Article to the contrary, the Owners of all of the Undivided Interests, including Declarant, shall have the right, acting unanimously, to sell all or any portion of the subject property at any time or from time to time. In such event, the Association shall execute and record in the office of the Register of Deeds for Sauk County, Wisconsin a certificate certifying that the conditions of this paragraph have been satisfied and that the Association is, therefore, authorized to execute and deliver all deeds or other instruments necessary or convenient to effect such sale.

F. Subordination. It is intended that this Declaration, the Articles of Association, the By-Laws and the Rules and Regulations of the Association shall govern all rights with respect to the Property and the amenities located thereon and likewise shall govern the disposition of the Undivided Interests conveyed in the subject property. Accordingly, all rights with respect to the use, possession, enjoyment, management and disposition which an Owner might otherwise have as a tenant in common (including, but not limited to, any common law or statutory right jointly to use, possess or manage commonly owned property) or otherwise, are hereby unconditionally and irrevocably subordinated to this Declaration for so long as this Declaration shall remain in effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be duly executed on the date and year first above written.

DELLONA ENTERPRISES, INC., a Wisconsin Corporation

By: Kenn R. Keim, President

Attest: LuAnne Keim, Secretary

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 1989, the above-named Kenn R. Keim, as President, and LuAnne Keim, as Secretary, and executed the foregoing instrument on behalf of the Declarant, Dellona Enterprises, Inc.

Notary Public, \_\_\_\_\_ County \_\_\_\_\_  
My Commission: \_\_\_\_\_

PROJECT NO. 9477

M.S.A. FILE NO. TIMBER2.DWG

CLIENT: CHRISTMAS MOUNTAIN  
STREET: S-944 CHRISTMAS MOUNTAIN ROAD  
CITY: WISC. DELLS WISC. 53965

SCALE: 1"=100'  
SHEET: 1 OF 1  
SIDE: 1 OF 2

MID-STATE ASSOCIATES INC. BARABOO, WIS. 53913

SAUK CO. CERTIFIED SURVEY MAP NO. \_\_\_\_\_

LOCATED IN THE NW1/4-SE1/4, NE1/4-SE1/4, SW1/4-SE1/4 AND SE1/4-SE1/4 OF SECTION 11, T13N, R5E, TOWN OF DELONA, SAUK COUNTY, WISCONSIN.

GRAPHIC SCALE



1 inch = 100 ft.

LANDS

COUNTY TRUNK HIGHWAY "H"

N70°16'33"E  
190.89'

S12°11'53"E  
273.99'

N29°34'2" W 51.99'  
N24°42'0" W 95.20'  
E 00°00'00.00" 87.65'

WEST 131.65'

N30°00'00" W 115.00'

NW1/4-SE1/4

REC. AS N88°22'06"W 352.35'  
S89°16'47"E

352.55' FORTY LINE

NE1/4-SE1/4

SW1/4-SE1/4

SE1/4-SE1/4

LOT 1

163,041 sq. ft.  
3.74 acres

FIRST ADDITION TO  
CHRISTMAS MOUNTAIN

53

52

51

P.O.B.  
S.E. CORNER  
LOT 63

N49°25'18"W 153.02'  
S00°00'00"E 282.70'  
S05°34'54"E 38.87'  
S09°56'12"W 84.58'

180.58'  
S87°36'38"W

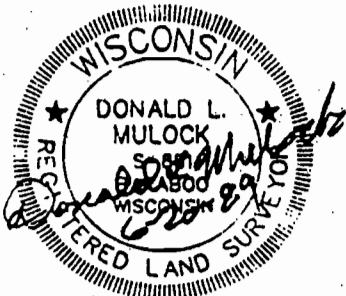
THE VILLAS AT CHRISTMAS MOUNTAIN  
A CONDOMINIUM, PHASE VI, "THE OAKS"

S.E. CORNER  
SECTION 11

LEGEND

- 1/2" SOLID, ROUND IRON RODS 3/4" DIA. WEIGHING 1.50 LBS. PER LIN. FT.
- EXISTING 2" DIA. ROUND IRON PIPE
- EXISTING 3/4" DIA. ROUND IRON RODS
- ⊙ EXISTING 1-1/4" DIA. ROUND IRON RODS
- ⊕ EXISTING GOVERNMENT CORNERS. SEE COUNTY SURVEY RECORDS.

ALL LINEAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST HUNDRETH OF A FOOT AND ALL ANGLES HAVE BEEN TURNED TO THE NEAREST MINUTE AND COMPUTED TO THE NEAREST SECOND



S.1/4 CORNER  
SECTION 11

S89°16'47"E 283.00'

BEARINGS ARE REFERENCED TO THE PLAT OF CHRISTMAS MOUNTAIN.  
ASSUMED

PROJECT NO. 9477

CLIENT: CHRISTMAS MOUNTAIN

STREET: S-944 CHRISTMAS MOUNTAIN ROAD

CITY: WISC. DELLS WISC. 53965

M.S.A. FILE NO. TIMBER.DWG

SCALE: 1"=200'

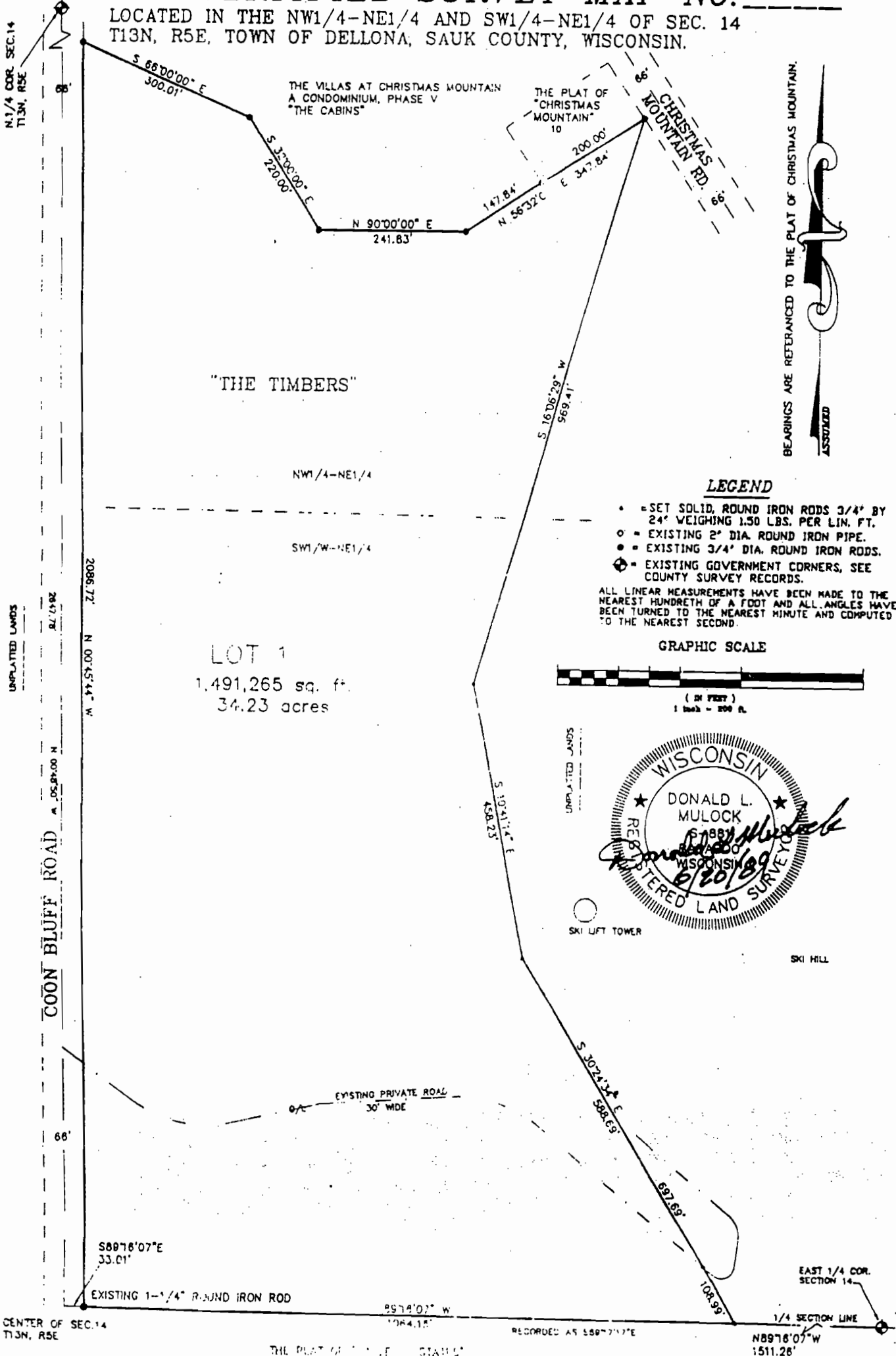
SHEET: 1 OF 1

SIDE: 1 OF 2

MID-STATE ASSOCIATES INC. BARABOO, WIS. 53913

SAUK CO. CERTIFIED SURVEY MAP NO. \_\_\_\_\_

LOCATED IN THE NW1/4-NE1/4 AND SW1/4-NE1/4 OF SEC. 14 T13N, R5E, TOWN OF DELONA, SAUK COUNTY, WISCONSIN.

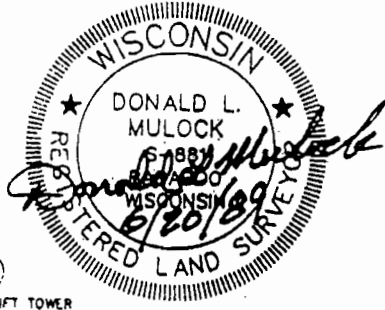
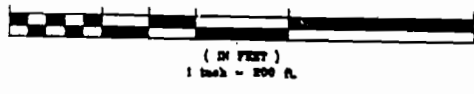


BEARINGS ARE REFERENCED TO THE PLAT OF CHRISTMAS MOUNTAIN.

LEGEND

- SET SOLID, ROUND IRON RODS 3/4" BY 24" WEIGHING 1.50 LBS. PER LIN. FT.
  - EXISTING 2" DIA. ROUND IRON PIPE.
  - EXISTING 3/4" DIA. ROUND IRON RODS.
  - ⊕ EXISTING GOVERNMENT CORNERS, SEE COUNTY SURVEY RECORDS.
- ALL LINEAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST HUNDRETH OF A FOOT AND ALL ANGLES HAVE BEEN TURNED TO THE NEAREST MINUTE AND COMPUTED TO THE NEAREST SECOND.

GRAPHIC SCALE



CENTER OF SEC. 14 T13N, R5E

RECORDED AS 580747E

1/4 SECTION LINE  
EAST 1/4 COR. SECTION 14  
N89°16'07"W  
1511.26'

## ARTICLES OF ASSOCIATION

### THE TIMBERS AT CHRISTMAS MOUNTAIN ASSOCIATION

The undersigned hereby associate together for the purpose of forming an unincorporated, nonprofit association under the laws of the State of Wisconsin and certify as follows:

#### ARTICLE I

The name of the Association shall be The Timbers at Christmas Mountain Association.

#### ARTICLE II

The general purpose of the Association shall be as follows: to be the "association" for the operation of the property known as The Timbers at Christmas Mountain (hereinafter the "Property") and as such association, to operate and administer the Property and carry out the functions and duties set forth in the Declaration of Covenants, Conditions and Restrictions for The Timbers at Christmas Mountain.

#### ARTICLE III

All persons who are Owners of Undivided Interests in the Property shall automatically be members of this Association. Such membership shall automatically terminate when such person is no longer an owner of an undivided interest. Subject to the foregoing, admission to and termination of membership in the Association shall be governed by the Declaration of Covenants, Conditions and Restrictions for The Timbers at Christmas Mountain, as recorded in the office of the Register of Deeds for Sauk County, Wisconsin, and as amended from time to time.

#### ARTICLE IV

This Association shall have perpetual existence.

#### ARTICLE V

The names and residents of the subscribers to these articles are as follows:

Kenn R. Keim  
12995 Cleveland Avenue  
Fort Myers, FL 33907

David Bidgood  
Christmas Mountain Village  
Wisconsin Dells, WI 53965

Jeff Keim  
12995 Cleveland Avenue  
Fort Myers, FL 33907

#### ARTICLE VI

Section 1. The affairs of the Association shall be managed and governed by a board of directors composed of not less than three (3) persons. The directors, subsequent to the first board of directors, shall be elected at the annual meeting of the membership, for a term of one (1) year, or until their successors shall be elected and shall qualify. Provisions for such election, and provisions respecting the removal, disqualification and