THE PRIMARY PURPOSE OF WINTERGREEN'S COVENANTS AND RESTRICTIONS HAS BEEN TO CREATE A COMMUNITY WHICH IS AESTHETICALLY PLEASING AND FUNCTIONALLY CONVENIENT. THESE COVENANTS ARE DESIGNED TO ENCOURAGE THE PRESERVATION OF PRIVATELY OWNED PROPERTY VALUES AND TO PROVIDE FOR ENHANCEMENT OF COMMON PROPERTY RIGHTS ENJOYED BY ALL OWNERS.

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This booklet incorporates amendments made to certain covenants and restrictions, and is current as of September 5, 2017

The amounts set forth in the following sections are amended from time to time. As of January 1, 2018, the assessment amounts are as follows:

** Part 1, Section 1, the All Property (General Covenants) have been supplemented by Article V, Section 5 of the Amended Property Owner Covenants (WPOA) which provides for a Special Assessment for New Construction, which currently (2018) is $750.00 for each new detached single-family dwelling.*

** Amended Property Owner Covenants (WPOA) Article V, Section III (b). The current (2018) Assessment Unit has been set at $1,149.00.*

DECLARATION OF RIGHTS, RESTRICTIONS, AFFIRMATIVE OBLIGATIONS AND CONDITIONS APPLICABLE TO ALL PROPERTY IN WINTERGREEN

WHEREAS, WINTERGREEN, a limited partnership existing under the laws of the Commonwealth of Virginia (the Company), is the owner of certain lands located within a community known as "Wintergreen" in Nelson and Augusta Counties, Virginia.

WHEREAS, the Company wishes to declare certain restrictive covenants affecting certain lands in Wintergreen.

Now, **THEREFORE**, the Company does hereby declare that the covenants contained herein shall be covenants running with the land and shall apply to the lands described in Exhibit "A" attached hereto and lands placed under the coverage hereof by express declaration. The Company reserves in each instance the right to add additional restrictive covenants in respect to said properties to be conveyed, or to limit therein the application of this Declaration.

DEFINITIONS

"Wintergreen" when used herein shall refer to the lands in Nelson and Augusta Counties, Virginia, which are shown as a part of Wintergreen on the Company's Master Development Plan as revised from time to time.

Whenever used herein, the term "Company" or "the Company" shall refer to Wintergreen, a Virginia limited partnership.

Whenever used herein, the term "Association" shall refer to Wintergreen Property Owners Association, Inc., a Virginia nonprofit corporation, its successors and assigns, and any other community or owners association within Wintergreen organized by the Company or by others with the consent of the Company.

The term "Property" when used herein shall refer to any tract of land or subdivision thereof in Wintergreen which has been subjected to the provisions of this Declaration by reference in deeds issued by the Company.

The term "Property Owner" when used in this Declaration shall mean and refer to all owners (including the Company) of an interest in real property in Wintergreen including, but not limited to, owners of property or tracts of land and owners of condominium units whether such property, tracts or units are used or/intended to be used for residential, commercial or recreational purposes.

The covenants and restrictions below will be referred to as the General Covenants of September 10, 1974, and will be recorded in the Offices of the Clerks of Circuit Court of Nelson and Augusta Counties, Virginia, and may be incorporated by reference in deeds to real property issued by the Company by reference to the book and page of recording in the land records of said Clerk's Offices.

PART I – COVENANTS, RESTRICTIONS AND AFFIRMATIVE OBLIGATIONS APPLICABLE TO ALL PROPERTIES IN WINTERGREEN

The primary purpose of these covenants and restrictions and the foremost consideration in the origin of same has been the creation of a community which is aesthetically pleasing and functionally convenient. The establishment of objective standards relating to design, size, and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advances and environmental considerations. For this reason such standards are not established by these covenants. In order to implement the purposes of these covenants, the Company may establish and amend, from time to time, objective standards and guidelines which shall be in addition to and more restrictive than said Conditional Use.

1. No building, fence or other structure shall be erected, placed or altered nor shall a building permit for such improvement be applied for on any property in Wintergreen until the proposed building plans and specifications, showing floor plans, the front elevation, exterior color or finish, a plot plan detailing the proposed location of such building or structure, drives and parking areas, a landscape plan, a pollution control plan described in paragraph 1 of Part II, and the construction schedule shall have been filed with and approved in writing by the Company, its successors or assigns. Refusal of approval of plans, location or specification may be based by the Company upon any ground, including purely aesthetic conditions, which in the sole and uncontrolled discretion of the Company shall seem sufficient. No alteration in the exterior appearance of any building or structure shall be made without like approval by the Company. A filing fee of ten ($10.00) dollars shall accompany the submission of such plans *. In the event approval of such plans is neither granted nor denied within thirty (30) days following receipt by Company of written demand for approval, the provisions of this paragraph shall be thereby waived.

2. Prior to the commencement of construction of improvements on any property, a building certificate must be obtained from the Company or its assigns and prior to occupancy of any dwelling unit a certificate of occupancy must be obtained from the Company or its assigns. A certificate of occupancy will not be

** See Article V, Section 5 of the Amended Property Owner Covenants (WPOA) for Special Assessments for Construction which currently (2018) has been set at $750.00.*

issued unless the improvements on the property substantially conform to the plans filed pursuant to the provisions of paragraph one (1) above.

3. In order to assure that location of buildings and other structures will be located and staggered, so that the maximum view, privacy and breeze will be available to each building or structure, and that structures will be located with regard to the topography of each property taking into consideration the location of large trees and other aesthetic and environmental considerations, the Company reserves unto itself, its successors and assigns, the right to control absolutely and solely to decide the precise site and location of any building or structure or structures on any property in Wintergreen for reasons which may in the sole and uncontrolled discretion and judgment of the Company seem sufficient. Such location shall be determined only after reasonable opportunity is afforded the property owner to recommend a specific site. Provided, however, that in the event an agreed location is stipulated in writing in the contract of purchase, the Company shall automatically approve such location.

4. Should any dwelling unit or other structure on any property be destroyed in whole or in part, it must be reconstructed or the debris therefrom must be removed and the property restored to a neat and sightly condition within six (6) months.

5. No signs shall be erected or maintained on any property by anyone including, but not limited to, the owner, a realtor, a contractor or subcontractor, except with the written permission of the Company or except as may be required by legal proceedings. If such permission is granted, the Company reserves the right to restrict size, color and content of such signs. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Company.

6. It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on such property. No outside burning of wood, leaves, trash, garbage or other refuse shall be permitted on any Property.

7. All animals must be secured by a leash or lead, or under the control of a responsible person and obedient to that person's command at any time they are permitted outside a house or other dwelling or other enclosed area approved by the Company for the maintenance and confinement of animals.

8. Prior to the occupancy of a building or structure on any property, proper and suitable provisions shall be made for the disposal of sewage by means approved by the Company.

9. Prior to the occupancy of a residence on any property, provision for water shall be made by means approved by the Company.

10. No property owner shall obstruct, alter or interfere with the flow or natural course of the waters of any creek, stream, lake or pond in Wintergreen without first obtaining the written consent of the Company.

11. The Company reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, over and under the ground to erect, maintain and use electric service, Community Antenna Television, and telephone poles, wires, cables, conduits, drainage ways, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public conveniences or utilities on, in or over those portions of such property as may be reasonably required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of such property as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these covenants by the Company, or (b) such portion of the property as may be designated as the site for a building on a plot plan for erection of a building which has been filed with the Company and which has been approved in writing by said Company. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Company further reserves the right to locate wells, pumping stations, siltation basins and tanks within Wintergreen in any open space or on any property designated for such use on the applicable plat of said property, or to locate same upon any property with the permission of the owner of such property. Such rights may be exercised by any licensee of the Company, but this reservation shall not be considered an obligation of the Company to provide or maintain any such utility or service.

Following the installation of any utility apparatus or other improvement on any property pursuant to the provisions of this paragraph, the Company shall restore such property as nearly as is reasonably possible to its condition immediately prior to such installation.

12. The Company hereby reserves the right to establish reasonable limitations on the number of overnight guests who may occupy a dwelling unit at one time and to limit the number of non-related persons who may reside in a dwelling unit.

13. The use of roads in Wintergreen shall be subject to rules and regulations established and modified from time to time by the Company.

14. No vehicle of any type other than conventional automobiles, jeeps and pickup trucks shall be parked or maintained on any lot or residential building site except during the period of construction of a dwelling unit(s) thereon. A separate parking area for other vehicles shall be provided by the Company or the Association and the use of such area shall be available to all property owners in Wintergreen subject to space availability and the payment of a fee.

15. Snowmobiles shall not be used or maintained on any property as a recreational vehicle. Such vehicles may, however, be employed in the normal course of the business of a commercial or service entity in Wintergreen upon its receiving a written permit from the Company.

16. No vehicle shall be allowed to be operated on any road or trail not shown on a recorded subdivision plat without the written consent of the Company. Written consent is hereby granted for the operation of four-wheel drive vehicles on "jeep" trails designated from time to time by the Company. The use of such "jeep" trails shall be subject to the rules and regulations established, modified from time to time, and maintained by the Company.

17. Whenever the Company is permitted by these covenants (including all parts hereof) to correct, repair, clean, preserve, clear out or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

PART II - ADDITIONAL RESTRICTIONS TO IMPLEMENT EFFECTIVE ENVIRONMENTAL CONTROLS

In order to protect the natural beauty of the vegetation, topography, and other natural features of all properties within Wintergreen and the beauty and purity of the watershed areas in Wintergreen the following environmental controls are hereby established:

1. Topographic and vegetation characteristics of properties within Wintergreen shall not be altered by removal, reduction, cutting, excavation or any other means without the prior written approval of the Company. Written approval will be granted hereunder only after a plan designed to protect the lakes and waterways from pollution resulting from erosion, pesticides or the seepage of fertilizer or other materials has been submitted to and accepted by the Company. Written approval will be granted for the minimum amount of earth movement and vegetation reduction required in plans and specifications approved pursuant to the provisions of paragraph 1 of Part I of these covenants.

2. No trees, shrubs or other vegetation may be removed without the written approval of the Company. Approval for the removal of trees located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building will be granted unless such removal will substantially decrease the beauty of the property.

3. In order to implement effective and adequate erosion control and protect the purity and beauty of lakes and waterways in Wintergreen, the Company, its successors and assigns, and its agents shall have the right to enter upon any property for the purpose of performing any grading or landscaping work of constructing and maintaining erosion prevention devices. Such entries shall, however, be made only after construction of improvements have commenced on such property or the soil thereof has been graded. Provided, however, that prior to exercising its right to enter upon the property for the purpose of performing any grading or landscaping work or constructing or maintaining erosion prevention devices, the Company, its successors and assigns, shall give the owner of the property the opportunity to take any corrective action required by giving the owner of the property notice indicating what type of corrective action is required and specifying in that notice that immediate corrective action must be taken by the owner. If the owner of the property fails to take the specified corrective action immediately, the Company shall then exercise its right to enter upon the property in order to take the necessary corrective action. The cost of such erosion prevention measures when performed by the Company shall be kept as low as reasonably possible. The cost of such work, when performed by the Company, its successors or assigns, shall be paid by the owner thereof.

4. In order to implement effective insect, reptile, wildlife and woods fire control, the Company and its agents have the right to enter upon any property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented, for the purpose of mowing, removing, clearing, cutting or pruning underbrush or weeds or other growth which in the opinion of the Company detracts from the overall beauty or safety for Wintergreen. The cost of this vegetation control shall be kept as low as reasonably possible and shall be paid by the owner of the property. The Company and its agents may likewise enter upon such property to remove any trash which has collected or to abate a threat to the watershed of Wintergreen from pollution. Such entry shall not be made until thirty (30) days after the owner of the property has been notified in writing of the need of such work, and unless such owner fails to perform the work within said thirty (30) day period. The provisions in this paragraph shall not be construed as an obligation on the part of the Company to mow, clear, cut or prune any property, to provide

garbage or trash removal services, or to provide water pollution control on any privately owned property.

5. In addition, the Company reserves unto itself, its successors and assigns a perpetual, alienable and releasable easement and right on, over and under any property to dispense pesticides and take other action which in the opinion of the Company is necessary or desirable to control insects and vermin, to cut firebreaks and other activities which in the opinion of the Company are necessary or desirable to control fires on any property, or any improvements thereon. In the exercise of the rights reserved in this paragraph 5 the Company must take necessary precautions to protect the purity of the Wintergreen watershed.

6. The lake in Wintergreen currently known as Lake Monocan is a primary water supply for Wintergreen, and the Company, the Association, and owners of property within Wintergreen, their successors and assigns have a responsibility to avoid causing material adverse effect to the beauty, quality and purity of the waters thereof. In order to insure that this responsibility is fully met, the Company shall promulgate and may amend from time to time rules and regulations which shall govern such sensitive environmental activities as the application of fertilizers and pesticides and other chemicals, erosion control measures, use of lake surface, and any other activities as may materially affect the waters of the lake. Failure of any owner or tenant of property in Wintergreen to comply with the requirements of such rules and regulations shall constitute a breach of these covenants. The Company hereby reserves unto itself a perpetual, alienable and releasable easement and right on, over and under all property in Wintergreen for the purpose of taking any action necessary to effect compliance with the environmental rules and regulations. The cost of such action by the Company shall be paid by the owner(s) of the property upon which the work is performed. The provisions of this paragraph shall not be construed to be an obligation of the Company to take any action to effect compliance with the environmental rules and regulations.

PART III - ADDITIONAL RESTRICTIONS AFFECTING OPEN SPACE AREAS

1. It is the intent of the Company to maintain and enhance (or to convey subject to open space restrictions to the Association) certain areas which the Company designates as "Open Space Areas" or "Private Open Space Areas" on plats filed for record in the Offices of the Clerks of Circuit Court of Augusta and Nelson Counties, Virginia, by the Company. It is the further intent and purpose of these restrictions and covenants to protect, to maintain and enhance the conservation of natural and scenic resources, to promote the conservation of soils, wet lands, wildlife, game and migratory birds, enhance the value of abutting and neighboring properties adjacent to such forests, wildlife preserves, natural

reservations or sanctuaries or other open areas and open spaces, and to afford and enhance recreation opportunities, preserve historical sites and implement generally the Wintergreen Master Plan for development.

2. An easement in Open Space Areas is hereby granted to the owners of properties in Wintergreen, their tenants and guests, which easement shall entitle such owners, tenants and their guests to enjoy the Open Space Areas subject to the rules and regulations of the Company.

3. Land designated as "Open Space Areas" may be employed in the construction, maintenance, and enjoyment of the following facilities:

(a) Social, recreational, and community buildings.
(b) Public and private profit making clubs, golf courses and other recreational facilities.
(c) Daycare centers, nursery schools, and kindergartens.
(d) Indoor and outdoor recreational establishments.
(e) Art school and/or art gallery and/or nature museum.
(f) Camps and camp sites.
(g) Emergency squad(s) and fire stations.

4. Land designated as "Private Open Space Areas" shall be subject to the easement granted in paragraph 2 of this Part III in every respect except that the enjoyment thereof shall be and is hereby limited to owners of property, tenants, and their guests immediately contiguous and adjacent to such land and owners of non-contiguous property designated on plats of property in Wintergreen as being entitled to the enjoyment thereof. The easement in Private Open Space Areas hereby granted shall not extend to any area not clearly designated as "Private Open Space Areas." All expenses incurred in the protection, maintenance and enhancement of "Private Open Space Areas" shall be paid equally by the owners who are entitled to an easement or enjoyment over such areas.

5. Pursuant to its overall program of wildlife conservation and nature study, the right is expressly reserved to the Company to erect wildlife feeding stations, to plant small patches of cover and food crops for quail, turkey and other wildlife, to make access trails or paths or boardwalks through said Open Space Areas and Private Open Space Areas for the purpose of permitting observation and study of wildlife, hiking, and riding, to erect small signs throughout the Open Space Areas and Private Open Space Areas designating points of particular interest and attraction, and to take such other steps as are reasonable, necessary and proper to further the aims and purposes of the open space community use and enjoyment thereof.

6. The Company shall have the right to protect from erosion the land described as Open Space Area or Private Open Space Area by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of siltation basins or other means deemed expedient or necessary by the Company. The right is likewise reserved to the Company to take steps necessary to provide and insure adequate drainage ways in open space, to cut firebreaks, remove diseased, dead or dangerous trees and carry out other similar activities.

7. The Company reserves unto itself, its successors and assigns a perpetual, alienable and releasable easement and right to go on, over and under the ground to erect, maintain and use electric, Community Antenna Television, telephone poles, wires, cables, conduits, drainage ways sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water drainage or other public conveniences or utilities in said Open Space Areas and Private Open Space Areas. These reservations and rights expressly include the right to cut any trees, bushes, or shrubbery, rights to make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Company further reserves the right to locate wells, pumping stations and tanks within such Open Space Areas and Private Open Space Areas. Such rights may be exercised by any licensee or assignee of the Company, but this reservation shall not be considered an obligation of the Company to provide or maintain any such utility or service.

8. No television antenna, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of open space property within Wintergreen except as following:

a) The provisions of this paragraph shall not prohibit the Company from installing equipment necessary for a master antenna system, Community Antenna Television (C.A.T.V.) and mobile radio systems or other similar systems within Wintergreen; and

(b) Should C.A.T.V. services be unavailable and good television reception not be otherwise available, an association owner may make written application to the Company for permission to install a television antenna and such permission shall not be unreasonably withheld.

9. No trash, garbage, sewage, sawdust or any unsightly or offensive material shall be placed upon such Open Space Areas or Private Open Space Areas, except

as is temporary and incidental to the bona fide improvement of the area in a manner consistent with its classification as open space.

10. The granting of the easement in Open Space Areas and Private Open Space Areas in this part in no way grants to the public or to the owners of any land outside Wintergreen the right to enter such open space without the express permission of the Company.

11. The Company expressly reserves to itself, its successors and assigns, every reasonable use and enjoyment of said open space, in a manner not inconsistent with the provisions of this Declaration.

12. The Company further reserves the right to convey "Open Space Areas" and "Private Open Space Areas" to the Association. Such conveyance shall be made subject to the provisions of this Part III. As an appurtenance to such conveyances the Association shall have all of the powers, immunities and privileges reserved unto the Company in this part as well as all of the Company's obligations with respect thereto, including the obligation to maintain and enhance set out in paragraph 1 of this part. Property conveyed to the Association pursuant to the authority of this paragraph 12 shall become "Common Properties" or "Restricted Common Properties" as prescribed by the "Declaration of Covenants and Restrictions of the Wintergreen Property Owners Association, Inc. and Wintergreen, a limited partnership", which are to be recorded in the Offices of the Clerks of Circuit Court of Augusta and Nelson Counties, Virginia, contemporaneously herewith.

13. Where the Company is permitted by these covenants to correct, repair, clean, preserve, clear out or do any action on the restricted property, entering the property and taking such action shall not be deemed a breach of these covenants.

14. It is expressly understood and agreed that the granting of the easements set out in this Part III in no way places a burden of affirmative action on the Company, that the Company is not bound to make any of the improvements noted herein, or extend to any property owner any service of any kind, except as such may be undertaken at the expense of the Association.

PART IV - ADDITIONAL RESTRICTIONS AFFECTING GOLF FAIRWAY PROPERTIES

1. "Golf Fairway Property" is defined as all those properties intended for subdivision or development located adjacent to any golf course located in Wintergreen.

2. That portion of any Golf Fairway Property within thirty (30) feet of the property line bordering the golf course shall be in general conformity with the overall landscaping pattern for the golf course fairway area established by the golf course architect. All individual landscaping plans must be approved by the Company, before implementation.

3. There is reserved to the Company a "Golf Course Maintenance Easement Area" on each property adjacent to any golf course located in Wintergreen. This reserved easement shall permit the Company at its election, to go onto any Golf Course Maintenance Easement Area. Such maintenance and landscaping may include regular removal of underbrush, trees less than six (6) inches in diameter, stumps, trash or debris, planting of grass, watering, application of fertilizer, and mowing the easement area. This Golf Course Maintenance Easement Area shall be limited to the portion of such property within thirty (30) feet of the boundary line(s) bordering the golf course, or such lesser area as may be shown as a "Golf Course Maintenance Area" on the recorded plat of such property; provided, however, that the above described maintenance and landscaping rights shall apply to the entire property until there has been filed with the Company a landscaping plan for such property by the owner thereof, or alternatively, a building or other structure is constructed thereon.

4. Until such time as a building or other structure is constructed on a property, the Company reserves an easement to permit and authorize registered golf course players and their caddies to enter upon a property to recover a ball or play a ball, subject to the official rules of the course, without such entering and playing being deemed a trespass. After a building or other structure is constructed, such easement shall be limited to that portion of the property included in the Golf Course Maintenance Easement Area, and recovery of balls only, not play, shall be permitted in such easement area. Golfers or their caddies shall not be entitled to enter on any such property with a golf cart or other vehicle, shall not spend unreasonable time on such property. After construction of a building or other structure on a Golf Fairway Property, "Out of Bounds" markers may be placed on said property by the Company.

5. Owners of Golf Fairway Property shall be obligated to refrain from any actions which would detract from the playing qualities of the golf course or the development of an attractive overall landscaping plan for the entire golf course area.

6. Notwithstanding the provisions of paragraph 3 of this Part IV, the Company hereby reserves the right to allow an owner to construct a building or other structure over a portion of the "Golf Course Maintenance Easement Area" in those cases

where it, in its uncontrolled discretion determines that such construction will not materially lessen the beauty or playing qualities of the adjacent golf course.

PART V - ADDITIONAL RESTRICTIONS AFFECTING SKI AREAS

1. "Ski Slope Property" is defined as all those properties intended for subdivision or development located adjacent to any ski slope or trail located in Wintergreen.

2. That portion of any Ski Slope Property within thirty (30) feet of the property or block line bordering the ski slope shall be in general conformity with the overall landscaping pattern for the ski slope area established by the ski slope architect. All individual landscaping plans must be approved by the Company, before implementation.

3. There is reserved to the Company a "Ski Slope Maintenance Easement Area" on each property adjacent to any ski slope located in Wintergreen. This reserved easement shall permit the Company at its election, to go onto any Ski Slope Maintenance Easement Area. Such maintenance and landscaping may include regular removal of underbrush, trees less than six (6) inches in diameter, stumps, trash or debris, planting of grass, watering, application of fertilizer, and mowing the easement area. This ski slope Maintenance Easement Area shall be limited to the portion of such property within thirty (30) feet of the boundary line(s) bordering a Ski Slope or trail, or such lesser area as may be shown as a "Ski Slope Maintenance Area" on the recorded plat of such property; provided, however, that the above described maintenance and landscaping rights shall apply to the entire property until there has been filed with the Company a landscaping plan for such property by the owner thereof, or alternatively, a building or other structure is constructed thereon.

4. Until such time as a building or other structure is constructed on a property, the Company reserves an easement to permit and authorize registered skiers to enter upon a property to recover a ski or other item of ski equipment, subject to the official rules of the ski area, without such entering being deemed a trespass. After a building or other structure is constructed, such easement shall be limited to that portion of the property included in the Ski Slope Maintenance Easement Area. Skiers shall not spend unreasonable time on such property.

5. Owners of Ski Slope Property shall be obligated to refrain from any actions which would detract from the skiing qualities of the ski area or the development of an attractive overall landscaping plan for the entire ski area.

6. Notwithstanding the provisions of paragraph 3 of this Part V, the Company hereby reserves the right to allow an owner to construct a building or other structure over a portion of the "Ski Slope Maintenance Area" in those cases where it, in its uncontrolled discretion determines that such construction will not materially lessen the beauty or playing qualities of the adjacent ski slope.

7. Ski slope property shall be subject to the following additional rights which are hereby reserved by the Company for itself, its successors and assigns:

(a) The right to maintain within the Ski Slope Maintenance Area drainage facilities to facilitate the removal of snow melt with minimum erosive effects.

(b) The right to enter upon any property to conduct first aid and rescue activities.

(c) The right to temporarily maintain and operate snow making machinery and related equipment (but not heavy motor driven vehicles) from time to time within the Ski Slope Maintenance Area.

PART VI - ADDITIONAL LIMITATIONS

1. All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any, of the Company for a period of thirty (30) years from the execution date of this Declaration after which time, all said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of property substantially affected by a change in covenants, has been recorded, agreeing to change said covenants in whole or in part. Unless the contrary shall be determined by a court of equity jurisdiction, "substantially affected" shall mean those properties shown on (a) the plats showing the properties to be modified in permitted use by the change, and (b) the plats which subdivided the property immediately abutting the property shown on plats identified in and recorded in the Offices of the Clerks of Circuit Court of Augusta and Nelson Counties, Virginia.

2. In the event of a violation or breach of any of the restrictions contained herein by any property owner, or agent of such owner, the owners of properties in the neighborhood or subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right to proceed at law or in equity to

compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing the Company and/or the Association shall have the right, whenever there shall have been built on any property in the subdivision any structure in violation of these restrictions, to enter upon such property where such violation exists and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions, or conditions contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or a bar to such right to enforce.

3. The Company reserves in each instance the right to add additional restrictive covenants in respect to lands conveyed in the future in Wintergreen, or to limit therein the application of these covenants. The right to add additional restrictions or to limit the application of these covenants shall be reasonably exercised and shall materially effect only properties against which these covenants have not been imposed.

4. The Company shall not be liable to an owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an owner or such other person arising out of or in any way relating to the subject matter of any reviews, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Company whether given, granted or withheld.

5. The Company reserves the right to assign in whole or in part to a subsequent developer of Wintergreen or to the Association its rights reserved in these covenants which include but are not limited to its right to grant approvals (or disapprovals) to establish rules and regulations, and all other rights reserved herein by the Company including but not limited to, the right to approve (or disapprove) plans, specifications, color, finish, plot plan and construction schedules. Following the assignment of such rights, the Assignee shall assume all of the Company's obligations which are incident thereto (if any) and the Company shall have no further obligation or liability with respect thereto. The assignment of such right or rights by the Company to an Assignee shall be made by written instrument which shall be recorded in said Clerk's Offices.

6. Wintergreen Property Owners Association, Inc. has established and published certain covenants and land use restrictions affecting properties in Wintergreen. Said covenants are to be recorded contemporaneously herewith in the Realty Records in the Offices of the Clerks of Circuit Court of Augusta and Nelson Counties, Virginia. Properties and owners of property subject to these covenants

shall also be subject to the provisions of the said covenants established by Wintergreen Property Owners' Association, Inc.

7. Entrance upon any Property by the Company or its agents or assigns pursuant to the provisions of these covenants shall not be deemed to be a trespass.

8. ***Severability***. Should any covenant or restriction herein contained, or any article, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof which are hereby to be severable and which shall remain in full force and effect.

Dated this 26th day of September, 1974.

WINTERGREEN, a Virginia Limited Partnership, by CC&F Wintergreen, Inc., a Partner of and Sole Agent for the General Partner, Big Survey Properties, a Massachusetts General Partnership:

CC&F WINTERGREEN, INC.
BY: GARY W. GREEN
Vice President

Attest: William S. Abbott
Secretary

State of Massachusetts)
ss.
County of Suffolk)

Personally appeared Gary W. Green and William S. Abbott and acknowledged the same to be their free act and deed, before me.

RUTH A. WHITE
NOTARY PUBLIC

My commission expires September 27, 1979

**DECLARATION OF RIGHTS, RESTRICTIONS,
AFFIRMATIVE OBLIGATIONS AND CONDITIONS
SINGLE FAMILY COVENANTS
September 10, 1974**

In addition to the General Covenants, the following restrictions and covenants shall be applied to these properties shown as Single Family Areas on plats of sections of Wintergreen recorded in the Offices of the Clerks of the Circuit Court of Nelson and Augusta Counties, Virginia.

PART I - DEFINITIONS

The definitions of the terms "Association", "Wintergreen", "Company", or "the Company" as defined in the General Covenants are specifically incorporated herein, by reference.

"General Covenants" as used herein shall mean and refer to the "Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable To All Properties In Wintergreen" established by the Company on the 10th day of September, 1974, and which are to be recorded contemporaneously herewith in the Offices of the Clerks of the Circuit Court of Nelson and Augusta Counties, Virginia.

"Single Family Areas" as used herein is defined as all those parcels or tracts of land intended for subdivision or subdivided into properties or lots intended for the construction of detached single family dwelling units.

PART II - RESTRICTIONS

1. The approval of plans required under paragraph 1 of Part I of the General Covenants will not be granted unless the proposed house or structure will have the minimum square footage of enclosed dwelling space. Such minimum requirements for each lot will be the greater of 800 square feet or that specified in each sales contract and stipulated in each deed. The term "enclosed dwelling area" as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas. The term does include, however, screened porches, if the roof of such porches forms an integral part of the roof line of the main dwelling or if they are on the ground floor of a two-story structure.

2. (a) All lots in said Residential Areas shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenant thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as

hereinafter provided shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) small one-story accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the site and provided further, that such building is not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building.

(b) A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling, and provided, however, that such suite would not result in overcrowding the lot.

(c) The provisions of this paragraph two (2) shall not prohibit the Company from using a house or other dwelling units as models.

3. The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until a certificate of occupancy has been issued thereon by the Company. During the continuance of construction, the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.

4. Each lot owner shall provide a screened area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance and location must be approved by the Company prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.

5. Each lot owner shall provide two (2) spaces for the parking of automobiles off streets prior to the occupancy of any building or structure constructed on said property in accordance with reasonable standards established by the Company.

6. No mobile home, trailer, tent, barn, or other similar out building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats and boat trailers may be maintained on a lot, but only within an enclosed or screened

area approved by the Company such that they are not generally visible from adjacent properties.

7. No structure of a temporary character shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on a lot by a contractor shall be subject to reasonable aesthetic control by the Company.

8. No television antenna, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot except as following:

(a) The provisions of this paragraph shall not prohibit the Company from installing equipment necessary for a master antenna system, Community Antenna Television (C.A.T.V.) and mobile radio systems or other similar systems within Wintergreen; and

(b) Should C.A.T.V. services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Company for permission to install a television antenna and such permission shall not be unreasonably withheld.

9. The utility and drainage easement reserved by the Company in paragraph eleven (11) of Part I of the General Covenants shall be located along any two (2) of the boundary lines of each lot in a Single Family Area unless a different location of such easements is shown on recorded subdivision plats.

10. No lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to Nelson County or Augusta County, except with the written consent of the Company. However, the Company hereby expressly reserves to itself, its successors, or assigns, the right to re-plat any lot or lots owned by it and shown on the plat of any subdivision within Wintergreen in order to create a modified building lot or lots; and to take such other steps as are reasonably necessary to make such re-platted lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights of way, private roads, bridges, parks, recreational facilities and other amenities to conform to the new boundaries of said re-platted lots, provided, however, no lot originally shown on a recorded plat shall be reduced to a size more than ten (10%) percent smaller than the smallest lot shown on the first plat of the affected subdivision section recorded in

the public records. The provisions of this paragraph shall not prohibit the combining of two (2) or more contiguous lots into one (1) larger lot. Following the combining of two (2) or more lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

PART III - ADDITIONAL LIMITATIONS

1. All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any, of the Company for a period of thirty (30) years from the execution date of this Declaration, after which time, all said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of property substantially affected by a change in covenants, has been recorded, agreeing to change said covenants in whole or in part. Unless the contrary shall be determined by a court of equity jurisdiction, "substantially affected" shall mean those properties in Wintergreen shown on (a) the plats showing the properties to be modified in permitted use by the change, and (b) the plats which subdivide the property immediately abutting the property shown on plats identified in the Realty records in the Offices of the Clerks of the Circuit Court of Nelson and Augusta Counties, Virginia.

2. In the event of a violation or breach of any of the restrictions contained herein by any property owner, or agent of such owner, the owners of properties in the neighborhood or subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right, whenever there shall have been built on any property in the subdivision any structure in violation of these restrictions, to enter upon such property where such violation exists and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions, or condition contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or a bar to such right to enforce.

3. The Company reserves in each instance the right to add additional restrictive covenants in respect to lands conveyed in the future in Wintergreen, or to limit therein the application of these covenants. The right to add additional

restrictions or to limit the application of these covenants shall be reasonably exercised and shall materially affect only properties against which these covenants have not been imposed.

4. The Company reserves the right to assign in whole or in part to a subsequent developer of Wintergreen or to the Wintergreen Property Owners Association, Inc. its rights reserved in these covenants which include, but are not limited to, its right to grant approvals (or disapprovals), to establish rules and regulations, and all other rights reserved herein by the Company, including, but not limited to, the right to approve (or disapprove) plans, specifications, color, finish, plot plan and construction schedules. Following the assignment of such rights, the Assignee shall assume all of the Company's obligations which are incident thereto (if any) and the Company shall have no further obligation or liability with respect thereto.

The Assignment of such right or rights by the Company to an Assignee shall be made by written instrument which shall be recorded in said Clerk's Offices.

5. Wintergreen Property Owners' Association, Inc., has established and published certain covenants and land use restrictions affecting properties in Wintergreen. Said covenants are to be recorded contemporaneously herewith in the Realty Records in the Offices of the Clerks of the Circuit Court of Nelson and Augusta Counties, Virginia. Properties and owners of property subject to these Covenants shall also be subject to the provisions of the said covenants established by Wintergreen Property Owners' Association, Inc.

6. ***Severability***. Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Dated this 10th day of September, 1974.

WINTERGREEN, a Virginia Limited Partnership, by CC&F Wintergreen, Inc., a Partner of and Sole Agent for the General Partner, Big Survey Properties, a Massachusetts General Partnership:
CC&F WINTERGREEN, INC. BY: GARY W. GREEN
Vice President

Attest: William S. Abbott
Secretary

State of Massachusetts)
ss.
County of Suffolk)

Personally appeared Gary W. Green and William S. Abbott and acknowledged the same to be their free act and deed, before me.

RUTH A. WHITE
NOTARY PUBLIC

My commission expires Sept. 27, 1979

**DECLARATION OF RIGHTS, RESTRICTIONS,
AFFIRMATIVE OBLIGATIONS AND CONDITIONS
MULTIPLE FAMILY COVENANTS
September 10, 1974**

In addition to the General Covenants, the following restrictions and covenants shall be applied to those properties shown as Multiple Family Areas on plats of sections of Wintergreen recorded in the Offices of the Clerks of the Circuit Court of Nelson and Augusta Counties, Virginia.

PART I - DEFINITIONS

The definitions of the terms "Association,", "Wintergreen", "Company", or "the Company" as defined in the General Covenants are specifically incorporated herein by reference.

"General Covenants" as used herein shall mean and refer to the "Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Properties in Wintergreen" established by the Company on the 10th day of September, 1974, and which are to be recorded contemporaneously herewith in the Offices of the Clerks of Circuit Court of Nelson and Augusta Counties, Virginia.

"Multiple Family Tract" is defined as all those parcels or tracts of land intended for development of or developed as attached residential units including townhouse lots for sale, condominiums, and apartments.

PART II- RESTRICTIONS

1. The approval of plans required by paragraph 1 of Part I of the General Covenants will not be approved unless the proposed house or structure will have the minimum square footage of dwelling space or no more than the maximum number of dwelling units, or maximum height above the ground, or maximum number of residential dwelling floors. Such minimum and maximum requirements for each Multiple Family Tract will be specified in each sales contract and stipulated in each deed. The term "enclosed dwelling area" as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas. The term does include, however, screened porches, if the roof of such porches forms an integral part of the roof line of the main dwelling or if they are on the ground floor of a two-story structure.

2. (a) All properties in Multiple Family Tracts shall be used for residential purposes and recreational purposes incidental thereto and for related

accessory uses. The use of a portion of a dwelling unit on a Multiple Family Tract as an office by the owner or tenant thereof shall be considered a residential use if such use does not create customer or client traffic to and from the unit.

(b) No structure or structures shall be erected, altered, placed or permitted to remain on any Multiple Family Tract except as provided for in these covenants and restrictions or except as provided for in each deed of conveyance and the said deed shall, in the discretion of the Company, expressly determine and limit the number of condominiums, apartments, townhouses, or other residential units or group of such units to be constructed on a given tract, including height of any and all such structures, and maximum occupancy of both individual units as well as total maximum occupancy of density of all units combined with a given Multiple Family Area.

(c) The provisions of this paragraph two (2) shall not prohibit the Company from using dwelling units as models.

3. The exterior of each phase or group of Multiple Family Units and other structures must be completed within two (2) years after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities. During the continuance of construction the property owner shall require the contractor to maintain the tract in a reasonably clean and uncluttered condition.

4. Each property owner shall provide a screened area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened areas delineating the size, design, texture, appearance and the Company prior to construction of the dwelling unit(s) must approve location. Garbage receptacles and fuel tanks may be located outside of such screened areas only if located underground.

5. No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any Multiple Family Tract at any time, either temporarily or permanently. Boats, boat trailers, campers, oversized vehicles, or utility trailers may be maintained on a Multiple Family Property in an area designated and approved for such storage, which shall be enclosed or screened so that such trailers, campers, etc., are not generally visible from adjacent properties.

6. No structure of a temporary character shall be placed upon any Multiple Family Tract at any time, provided, however, that this prohibition shall not apply to shelters or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on a lot by the contractor shall be subject to reasonable aesthetic control by the Company.

7. No television antenna, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot except as follows:

(a) The provisions of this paragraph shall not prohibit the Company from installing equipment necessary for a master antenna system, Community Antenna Television (C.A.T.V.), and mobile radio systems or other similar systems within Wintergreen; and

(b) Should C.A.T.V. services be unavailable and good television reception not be otherwise available, a Multiple Family Tract owner or any owner of a residence within a Multiple Family Tract may make written application to the Company for permission to install a television antenna and such permission shall not be unreasonably withheld.

8. Following the subdivision of a Multiple Family Tract into individual lots on which Townhouses are intended to be constructed, no such individual lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to Nelson County, except with the written consent of the Company. However, the Company hereby expressly reserves to itself, its successors, or assigns, the right to re-plat any townhouse lot or lots in order to create a modified building lot or lots; and to take such other steps as are reasonably necessary to make such re-platted lot suitable and fit as a building site for townhouses, including, but not limited to, the relocation of easement walkways, rights of way, private roads, bridges, parks, recreational facilities and other amenities to conform to the new boundaries of said re-platted lots. Provided, however, no lot originally shown on a recorded plat shall be reduced to a size more than ten (10%) percent smaller than the smallest lot shown on the first plat of the subdivision section recorded in the public records. The provisions of this paragraph shall not prohibit the combining of two (2) or more contiguous lots into one (1) larger lot. Following the combining of two (2) or more lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

9. No building or any portion of a building shall be converted into a condominium or cooperative form of ownership within Wintergreen without the prior written consent of the Company. The Company's decision in determining whether to grant consent for such conversion may be based on any ground which in its sole and uncontrolled discretion shall seem sufficient. Should such consent be granted, the resulting condominium or cooperative shall continue to be subject to these Multiple Family Covenants.

PART III - ADDITIONAL LIMITATIONS

1. All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any, of the Company for a period of thirty (30) years from the execution date of this Declaration, after which time, all said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of property substantially affected by a change in covenants, has been recorded, agreeing to change said covenants in whole or in part. Unless the contrary shall be determined by a court of equity jurisdiction, "substantially affected" shall mean those properties in Wintergreen shown on (a) the plats showing the properties to be modified in permitted use by the change, and (b) the plats which subdivided the property immediately abutting the property shown on plats identified in Realty records in the Offices of the Clerks of the Circuit Court of Nelson and Augusta Counties, Virginia.

2. In the event of a violation or breach of any of the restrictions contained herein by any Multiple Family Tract Owner, or agent of such owner, the owners of properties in the neighborhood or subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right whenever there shall have been built on any property in the Multiple Family Tract, any structure in violation of these restrictions, to enter upon such property where such violation exists and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions, or condition contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or a bar to such right to enforce.

3. The Company reserves in each instance the right to add additional restrictive covenants in respect to lands conveyed in the future in Wintergreen or to limit therein the application of these covenants. The right to add additional restrictions or to limit the application of these covenants shall be reasonably exercised and shall materially affect only properties against which these covenants have not been imposed.

4. The Company reserves the right to assign in whole or in part to a subsequent developer of Wintergreen or to the Wintergreen Property Owners Association, Inc. its rights reserved in these covenants which include but are not limited to its right to grant approvals (or disapprovals) to establish rules and regulations and all other rights reserved herein by the Company, including but not limited to, the right to approve (or disapprove) plans, specifications, color, finish, plot plan and construction schedules.

Following the assignment of such rights, the Assignee shall assume all of the Company's obligations which are incident thereto (if any) and the Company shall have no further obligation or liability with respect thereto.

The Assignment of such right or rights by the Company to an Assignee shall be made by written instrument which shall be recorded in said Clerks Offices.

5. Wintergreen Property Owners Association, Inc., has established and published certain covenants and land use restrictions affecting properties in Wintergreen. Said covenants are to be recorded contemporaneously herewith in the Realty Records in the Offices of the Clerks of the Circuit Court of Nelson and Augusta Counties, Virginia. Properties and owners of property subject to these covenants shall also be subject to the provisions of the said covenants established by Wintergreen Property Owners Association, Inc.

6. ***Severability.*** Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase, or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Dated this 10th day of September, 1974.

WINTERGREEN, a Virginia Limited Partnership, by CC&F Wintergreen, Inc., a Partner of and Sole Agent for the General Partner, Big Survey Properties, a Massachusetts General Partnership:

CC&F WINTERGREEN, INC.
BY: GARY W. GREEN
Vice President

Attest: William S. Abbott
Secretary

State of Massachusetts)
ss.
County of Suffolk)

Personally appeared Gary W. Green and William S. Abbott and acknowledged the same to be their free act and deed, before me.

RUTH A. WHITE
NOTARY PUBLIC

My commission expires Sept. 27, 1979

**DECLARATION OF RIGHTS, RESTRICTIONS,
AFFIRMATIVE OBLIGATIONS AND CONDITIONS
VALLEY RESIDENTIAL COVENANTS
May 19, 1976**

In addition to the General Covenants, the following restrictions and covenants shall be applied to certain properties shown as Residential Areas on plats of Valley Subdivisions of Wintergreen recorded in the Office of the Clerk of the Circuit Court of Nelson County, Virginia.

PART I - DEFINITIONS

The definitions of the terms "Association", "Wintergreen", "Company", or "the Company" as defined in the General Covenants are specifically incorporated herein, by reference.

"General Covenants" as used herein shall mean and refer to the "Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable To All Properties In Wintergreen" established by the Company on the 10th day of September, 1974, and which is recorded in the Office of the Clerk of the Circuit Court of Nelson County, Virginia in deed book 137 at page 568.

"Valley Residential Areas" as used herein are defined as those certain parcels or tracts of land located in the Valley Village Area of Wintergreen intended for subdivision or subdivided into properties or lots intended for the construction of detached single family dwelling units which are subjected to these Valley Residential Covenants.

PART II- RESTRICTIONS

1. The approval of plans required under paragraph 1 of Part I of the General Covenants will not be granted unless the proposed house or structure will have the minimum space footage of enclosed dwelling space. Such minimum requirements for each lot will be the greater of 800 square feet or that specified in each sales contract and stipulated in each deed. The term "enclosed dwelling areas” as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas. The term does include, however, screened porches, if the roof of such porches forms an integral part of the roof line of the main dwelling or if they are on the ground floor of two-story structure.

2. (a) All lots in said Residential Areas shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the

owner or tenants thereof shall be considered a residential use if such use does not create customer or client to and from the lot.

(b) No enclosed structure, except as hereinafter provided shall be erected, altered, placed or permitted to remain on any lot other than:

(i) One detached single-family dwelling

(ii) One accessory building which may include a guest suite or incorporate a private garage

(iii) One stable, barn or similar building to be used for the care of horses, or agricultural equipment and/or supplies and not to be used for human habitation.

(c) Neither shall any structure as described in paragraph 2b above nor shall any fence or similar enclosure be placed, erected, or altered without the prior approval of the siting, plans, design, texture, appearance and location thereof as provided under paragraph 1 of Part 1 of the General Covenants. The Company shall have the right to require that the siting of any enclosed structures or fence be staked out on the proposed location prior to granting its approval for the construction thereof.

(d) Each lot owner building a fence or similar enclosure covenants for himself and for his successors in interest to either maintain said fence or enclosure in good repair or to remove it and return the land over which said fence runs to the condition it was in prior to the construction of said fence.

(e) A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling, and stable or barn if any.

(f) The provisions of this paragraph two (2) shall not prohibit the Company from using a house or other dwelling units as models.

3. The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until a certificate of occupancy has been issued thereon by the Building Inspector. During

the continuance of construction, the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.

4. Each lot owner shall provide a screened area in which garbage receptacles, fuel tanks, water tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, well pumps, clotheslines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance and location must be approved by the Company prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.

5. Each lot owner shall provide two (2) spaces for the parking of automobiles off streets prior to the occupancy of any building or structure constructed on said property in accordance with reasonable standards established by the Company.

6. No mobile home, trailer, tent, or other similar temporary out building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats and boat trailers may be maintained on a lot, but only within an enclosed or screened area approved by the Company such that they are not visible from adjacent properties.

7. No structure of a temporary character shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on a lot by a contractor shall be subject to reasonable aesthetic control by the Company.

8. No television antenna, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot except as following:

(a) The provisions of this paragraph shall not prohibit the Company from installing equipment necessary for a master antenna system, Community Antenna Television (C.A.T.V.) and mobile radio systems or other similar systems within Wintergreen; and

(b) Should C.A.T.V. services or TV Translator signal be unavailable and good television reception not be otherwise available, a lot owner may make written

application to the Company for permission to install a television antenna and such permission shall not be unreasonably withheld.

9. The utility and drainage easement reserved by the Company in paragraph eleven (11) of Part I of the General Covenants shall be located along any two (2) of the boundary lines of each lot in a Valley Residential Area unless a different location of such easements is shown on recorded subdivision plats.

10. No lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to Nelson County, except with the written consent of the Company. However, the Company hereby expressly reserves to itself, its successors, or assigns, the right to re-plat any lot or lots owned by it and shown on the plat of any subdivision within Wintergreen in order to create a modified building lot or lots; and to take such other steps as are reasonably necessary to make such re-platted lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights of way, private roads, bridges, parks, recreational facilities and other amenities to conform to the new boundaries of said re-platted lots, provided, however, no lot originally shown on a recorded plat shall be reduced to a size more than ten (10%) percent smaller than the smallest lot shown on the first plat of the affected subdivision section recorded in the public records. The provisions of this paragraph shall not prohibit the combining of two (2) or more contiguous lots into one (1) larger lot. Following the combining of two (2) or more lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

11. No lot may be used for raising, pasturing or keeping swine, poultry, goats, or any other animals that may be a nuisance to adjacent properties. Horses and ponies shall be permitted provided that they are enclosed by a substantial fence when grazing. In no case shall such number of animals be permitted that they are a nuisance to adjacent properties or that they over burden the land on which they are being kept. The Wintergreen Property Owner's Association, Inc. or its designate shall have the authority to determine both whether the keeping of any animal not specifically referred to above would be a nuisance to adjacent properties and whether the numbers of animals being kept on a lot over burden that property.

PART III - ADDITIONAL LIMITATIONS

1. All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any, of the Company for a period of thirty (30) years from the execution date of this Declaration, after which time, all said covenants shall be automatically

extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of property substantially affected by a change in covenants, has been recorded, agreeing to change said covenants in whole or in part. Unless the contrary shall be determined by a court of equity jurisdiction, "substantially affected" shall mean those properties in Wintergreen shown on:

(a) the plats showing the properties to be modified in permitted use by the change, and

(b) the plats which subdivide the property immediately abutting the property shown on plats identified in the Realty records in the Office of the Clerk of the Circuit Court of Nelson County, Virginia.

2. In the event of a violation or breach of any of the restrictions contained herein by any property owner, or agent of such owner, the owners of properties in the neighborhood or subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right, whenever there shall have been built on any property in the subdivision any structure in violation of these restrictions, to enter upon such property where such violation exists and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions, or condition contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or a bar to such right to enforce.

3. The Company reserves in each instance the right to add additional restrictive covenants in respect to lands conveyed in the future in Wintergreen, or to limit therein the application of these covenants. The right to add additional restrictions or to limit the application of the covenants shall be reasonably exercised and shall materially affect only properties against which these covenants have not been imposed.

4. The Company reserves the right to assign in whole or in part to a subsequent developer of Wintergreen or to the Wintergreen Property Owners Association, Inc. its rights reserved in these covenants which include, but are not limited to, its right to grant approvals (or disapprovals), to establish rules and regulations, and all other rights reserved herein by the Company, including, but not

limited to, the right to approve (or disapprove) plans, specifications, color, finish, plot plan and construction schedules. Following the assignment of such rights, the Assignee shall assume all of the Company's obligations which are incident thereto (if any) and the Company shall have no further obligations or liability with respect thereto.

The Assignment of such right or rights by the Company to an Assignee shall be made by written instrument which shall be recorded in said Clerk's Offices.

5. Wintergreen Property Owners Association, Inc., has established and published certain covenants and land use restrictions affecting properties in Wintergreen. Said covenants are recorded in the Office of the Clerk of the Circuit Court of Nelson County, Virginia in Deed Book 137 at page 589. Properties and owners of property subject to these Covenants shall also be subject to the provisions of the said covenants established by Wintergreen Property Owners' Association, Inc.

6. ***Severability.*** Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter thereof, such judgment shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

WINTERGREEN, a Virginia Limited Partnership, by CC&F Wintergreen, Inc., a Partner of and Sole Agent for the General Partner, Big Survey Properties, a Massachusetts General Partnership:

BY: GARY W. GREEN
Vice President

Stuart R. Sadler

Ass't Secretary

State of Virginia

To-Wit: County of Nelson

Personally appeared Gary W. Green and Stuart R. Sadler and acknowledged the same to be their free act and deed, before me.

DIANE KAY MARTIN
NOTARY PUBLIC

My commission expires: Dec. 4, 1978

**DECLARATION OF RIGHTS, RESTRICTIONS,
AFFIRMATIVE OBLIGATIONS AND CONDITIONS
AMENDED VALLEY RESIDENTIAL COVENANTS
March 12, 1986**

In addition to the General Covenants, the following restrictions and covenants shall be applied to certain properties shown as Residential Areas on plats of Valley Subdivisions of Wintergreen recorded in the Office of the Clerk of the Circuit Court of Nelson County, Virginia.

PART I - DEFINITIONS

The definitions of the terms "Association" or "Wintergreen", as defined in the General Covenants are specifically incorporated herein, by reference to the General Covenants described below.

"General Covenants" as used herein shall mean and refer to the "Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable To All Properties In Wintergreen" established by the Company on the 10th. Day of September, 1974, and which is recorded in the Office of the Clerk of the Circuit Court of Nelson County, Virginia in deed book 137, at page 568.

"Valley Residential Areas" as used herein are defined as those certain parcels or tracts of land located in the Valley Village Area of Wintergreen intended for subdivision or subdivided into properties or lots intended for the construction of detached single family dwelling units which are subjected to these Revised Valley Residential Covenants.

The "Company" as used herein, shall mean Wintergreen Development, Inc., its successors and assigns.

PART Il - RESTRICTIONS

1. The approval of plans required under paragraph I of Part I of the General Covenants will not be granted unless the proposed house or structure will have the minimum space footage of enclosed dwelling space. Such minimum requirements for each lot will be the greater of 1400 square feet or that specified in each sales contract and stipulated in each deed. The term "enclosed dwelling area" as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas. The term does include, however, screened porches, if the roof of such porches forms an integral part of the roof line of the main dwelling or if they are on the ground floor of a two-story structure. All approvals required to

be made by the Company under paragraph I of Part I of the General Covenants shall be based solely upon the Company's subjective esthetic and/or design requirements. Explicit objective standards are not established by these covenants because such standards would make it impossible to take full advantage of the individual characteristics of each lot, of on-going technological advances or of changing environmental considerations. All approvals made by the Company (unless a deemed approval as described in paragraph 20 below), shall be in writing and shall be effective when placed in the mail or hand delivered to the individual requesting the approval. The Company shall have the right to condition any approval required by paragraph I of Part I of the General Covenants upon the deposit of a reasonable surety of performance by the individual requesting such approval.

2. (a) All lots in said Residential Areas shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot.

(b) No enclosed structure, except as hereinafter provided shall be erected, altered, placed or permitted to remain on any lot other than:

(i) One detached single-family dwelling

(ii) One accessory building which may include a bathhouse, guest suite or incorporate a private garage.

(c) Neither shall any structure as described in paragraph 2b above nor shall any postal delivery box or any fence or similar enclosure be placed, erected, or altered without the prior approval by the Company of the siting, plans, design, color, texture, appearance and location thereof as provided under paragraph I of Part I of the General Covenants. The Company shall have the right to require that the siting of any enclosed structures or fence be staked out on the proposed location prior to granting its approval for the construction thereof.

(d) Each lot owner building a fence or similar enclosure covenants for himself and for his successors in interest to either maintain said fence or enclosure in good repair or to remove it and return the land over which said fence runs to the condition it was in prior to the construction of said fence.

(e) A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling.

(f) The provisions of this paragraph two (2) shall not prohibit the Company from using houses or other dwelling units as models or as a real estate sales office.

3. The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until a certificate of occupancy has been issued thereon by the Building Inspector. During the continuance of construction, the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.

4. Each lot owner shall provide a screened area in which garbage receptacles, fuel tanks, water tanks or similar storage receptacles, electric and gas meters, air-conditioning equipment, well pumps, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance and location must be approved by the Company prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground. Clotheslines and drying yards shall not be placed on any lot at any time.

5. Each lot owner shall provide two (2) spaces for the parking of automobiles off streets prior to the occupancy of any building or structure constructed on said property in accordance with reasonable standards established by the Company. Each lot owner shall notify the Wintergreen Police Department not less than five (5) days in advance of any gathering at any lot at which more than five (5) automobiles not belonging to Wintergreen property owners or having Wintergreen parking stickers will be parked.

6. No mobile home, trailer, tent, or other similar temporary out building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats and boat trailers may be maintained on a lot, but only within an enclosed or screened area approved by the Company such as that they are not visible from adjacent properties.

7. No structure of a temporary character shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on a lot by a contractor shall be subject to reasonable aesthetic control by the Company.

8. No television antenna, satellite dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any building or structure or on any lot except as following:

(a) The provisions of this paragraph shall not prohibit the Company or its assigns from installing equipment necessary for a cable television system, television translator and mobile radio systems or other similar systems within Wintergreen; and

(b) Should cable television services or TV Translator signal be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Company for permission to install a conventional television antenna and such permission shall not be unreasonably withheld.

9. The utility and drainage easement reserved by the Company in paragraph eleven (11) of Part I of the General Covenants shall be located along any two (2) of the boundary lines of each lot in a Valley Residential Area provided, however, if a specific location of such easements is shown on the recorded subdivision plats, such specific easement location shall be in addition to the utility and drainage easements provided hereby.

10. No lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to Nelson County, except with the written consent of the Company. However, the Company hereby expressly reserves to itself, its successors, or assigns, the right to re-plat any lot or lots owned by it and shown on the plat of any subdivision with Wintergreen in order to create a modified building lot or lots; and to take such other steps as are reasonably necessary to make such re-platted lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights of way, private roads, bridges, parks, recreational facilities and other amenities to conform to the new boundaries of said re-platted lots, provided, however, no lot originally shown on a recorded plat shall be reduced to a size more than ten (10%) percent smaller than the smallest lot shown on the first plat of the affected subdivision section recorded in the public records.

The provisions of this paragraph shall not prohibit the combining of two (2) or more contiguous lots into one (1) larger lot. Following the combining of two (2) or more lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

11. No livestock, fowl or other animals may be kept or maintained on any lot except domestic cats, dogs and pet birds (except parrots) which may be kept in reasonable numbers as pets for the pleasure and use of the occupants, but not for any commercial use or purpose. No dog houses, pens or animal shelters of any kind shall be permitted on any lot. No animal shall be allowed to run loose upon the property or any lot.

12. Neither tree houses nor platforms of like kind or nature, nor shall any exterior child play structures be placed, constructed or maintained on any lot.

13. No permanently mounted through the wall or window mounted air-conditioning units shall be permitted to be installed in or maintained in any structure unless expressly approved in writing by the Company or its assigns.

14. No exterior loud speaker or other audio broadcasting system shall be erected, installed, maintained or operated on any lot unless such action shall have been approved by the Company or its assigns.

15. No structure, pool or other facility shall be constructed or maintained so that it shall be heated or cooled by an alternative energy source including, but not limited to, active or passive solar energy or by wind driven electrical generators, which shall involve the construction or erection of any separate structure or unusual architectural feature or features without the prior written approval of the Company.

16. No private golf carts, motorcycles, motor bikes or all ATV's (all terrain vehicles) shall be operated nor maintained on any lot or other property subjected to these covenants.

17. No tennis courts shall be constructed or maintained on any lot. Except as may be approved on a case by case basis by the Company, but in no instance shall they be lighted.

18. Access to a lot by a lot owner shall be obtained only from the adjacent right-of-way established by the Company for such purpose.

19. Each lot owner, by his purchase of the lot covered by these Amended Valley Covenants, thereby agrees to and supports the abandonment of State Route 634 to the Company or the Association, provided such road shall then be made a part of the Wintergreen road system as it is operated and maintained by the Wintergreen Property Owners Association.

20. In the event an approval shall be requested in a writing delivered to the Company or its designated representative for any item or action covered by these covenants, and the Company shall take no action on such request for a period of thirty (30) days following receipt of such request, such item or action shall be taken as approved by the Company.

PART III - ADDITIONAL LIMITATIONS

1. All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any of the Company for a period of thirty (30) years from the execution date of this Declaration, after which time, all said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of property substantially affected by a change in covenants, has been recorded, agreeing to change said covenants in whole or in part. Unless the contrary shall be determined by a court of equity jurisdiction, "substantially affected" shall mean those properties in Wintergreen shown on (a) the plats showing the properties to be modified in permitted use by the change, and (b) the plats which subdivide the property immediately abutting the property shown on plats identified in the Realty records in the Office of the Clerk of the Circuit Court of Nelson County, Virginia.

2. In the event of a violation or breach of any of the restrictions contained herein by any property owner, or agent of such owner, the owners of properties in the neighborhood or subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Company and/or the Association shall have the right, whenever there shall have been built on any property in the subdivision any structure in violation of these restrictions, to enter upon such property where such violation exists and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be

deemed a trespass. The failure to enforce any rights, reservations, restrictions, or condition contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or a bar to such right to enforce.

3. The Company reserves in each instance the right to add additional restrictive covenants in respect to lands conveyed in the future in Wintergreen, or to limit therein the application of these covenants. The right to add additional restrictions or to limit the application of the covenants shall be reasonably exercised and shall materially affect only properties against which these covenants have not been imposed.

4. The Company reserves the right to assign in whole or in part to a subsequent developer of Wintergreen or to the Wintergreen Property Owners Association, Inc. its rights reserved in these covenants which include, but are not limited to, its right to grant approvals (or disapprovals), to establish rules and regulations, and all other rights reserved herein by the Company, including, but not limited to, the right to approve (or disapprove) plans, specifications, color, finish, plot plan and construction schedules. Following the assignment of such rights, the Assignee shall assume all of the Company's obligations which are incident thereto (if any) and the Company shall have no further obligations or liability with respect thereto.

The Assignment of such right or rights by the Company to an Assignee shall be made by written instrument which shall be recorded in said Clerk's Offices.

5. The Company shall not be liable to an owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an owner or such other person arising out of or in any way relating to the subject matter of any reviews, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Company whether given, granted or withheld.

6. Wintergreen Property Owners Association, Inc. has established and published certain covenants and land use restrictions affecting properties in Wintergreen. Said covenants are recorded in the Office of the Clerk of the Circuit Court of Nelson County, Virginia in Deed Book 137, at Page 589 as amended by documents recorded in said Clerk's Office in Deed Book 147, at Page 269, at Deed Book 15 1, at Page 672, at Deed Book 169, at Page 508 and at Deed Book 223, at Page 474. Properties and owners of property subject to these Covenants shall also be subject to the provisions of the said covenants established by the Wintergreen Property Owners Association, Inc.

7. ***Severability.*** Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court of other tribunal having jurisdiction over the parties hereto and the subject matter thereof, such judgment shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

WINTERGREEN DEVELOPMENT, INC.

By: Edward P. Spears
President

ATTEST: Stuart R. Sadler

STATE OF VIRGINIA

To-Wit:

COUNTY OF NELSON

Personally appeared Edward P. Spears and Stuart R. Sadler and acknowledged the same to be their free act and deed before me this 12th. day of March, 1986.

My commission expires: 1-20-87

LESLEY A. ROWE
Notary Republic

AFFIX

NOTARIAL

SEAL:

AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS OF THE WINTERGREEN PROPERTY OWNERS ASSOCIATION

[Incorporating First Addendum to Amended and Restated Declaration of Covenants and Restrictions of the Wintergreen Property Owners Association dated November 29, 2008]

THIS DECLARATION, made this 1st day of February 2000, by Wintergreen Property Owners Association, Inc. a Virginia non-profit corporation, hereinafter called "Association".

INTRODUCTION:

The Association, along with Wintergreen, a Virginia Limited Partnership, recorded a Declaration of Covenants and Restrictions ("Original Declaration") dated September 26th, 1974 governing the real property known as Wintergreen in order to create a planned development community with a balanced representation of residential, commercial and recreational uses. The Original Declaration was recorded in the Clerk's Office of Nelson County in Deed Book 137 at page number 589.

The Association desires to amend and restate the Original Declaration to reflect changes necessitated by the transition to homeowner control of the Association and other changes in the operation and development of the Property.

At a meeting of the Association held on November 27th, 1999, pursuant to notice dated October 22nd, 1999, at which a quorum was present, the members voting in person and by proxy approved this Amendment by casting 3247 votes in favor of the Amendment out of 3327 present, which represent 752 more votes than the 2495 required by Article VIII, Section 2 of the Declaration for approval.

This Amendment and Restatement was thereby approved and shall become effective on February 1, 2000.

THEREFORE, the Association declares that the real property previously subjected to the Original Declaration and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to these Amended and Restated Covenants and Restrictions ("the Declaration").

ARTICLE I – DEFINITIONS

The following words and terms when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) “Association” shall mean and refer to Wintergreen Property Owners Association, Inc., a Virginia non-profit corporation, its successors and assigns.

(b) “Wintergreen” shall mean and refer to the lands in Augusta and Nelson Counties, Virginia, which are subject to this Declaration.

(c) “Developer” shall mean Wintergreen, A Virginia Limited Partnership, its successors and assigns.

(d) The “Properties” shall mean and refer to the Existing Wintergreen Property described in Article II hereof, and additions thereto, as are subjected to this Declaration or any supplemental declaration under the provisions of Article II hereof.

(e) “Lot” or “Residential Lot” shall mean any subdivided but unimproved parcel of land located within the Properties which is intended for use as a site for a single family detached dwelling, townhouse, or garden home (Patio or Zero lot line) as shown upon any recorded final subdivision map of any part of the Properties. “Residential Lot” shall also include a “Back Country Parcel” on which more than one (1) single family dwelling may be permitted. A parcel of land shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessments as improved properties.

(f) “Multiple-Family Tract” shall mean any unimproved parcel of land located within the Properties, intended for development of attached residential units including townhouse lots, condominiums and apartments. For the purposes of this Declaration, a parcel of land shall not be deemed a “Multiple-Family Tract” until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such property for multiple-family use is recorded in the Offices of the Clerks of Circuit Court of Augusta or Nelson County, Virginia, and further, shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved properties. Townhouse lots shall become

“Residential Lots” at such time as they appear on a plat recorded in said Clerk’s Offices.

(g) “Back Country Parcel” shall mean and refer to parcels in Wintergreen generally containing five (5) acres or more which are designated as “Back Country Parcels” on plats of subdivisions filed in the Office of the Clerks of Circuit Court of Augusta or Nelson County, Virginia.

(h) “Public or Commercial Site” shall mean any unimproved parcel of land within the Properties, intended for use as a site for improvements designed to accommodate commercial or business enterprises to serve residents of Wintergreen and/or the public, including but not limited to: business and professional offices facilities for the retail sale of goods and services; banks and other financial institutions; social clubs; restaurants; hotels, motels, inns; theaters; lounges; indoor recreational facilities; transportation terminals or stations; automobile parking facilities, fuel stations, and condominium regimes designed for mixed commercial and residential uses, provided, however, that a “Public or Commercial Site” shall not include property upon which improvements are to be built which also qualifies as a Multiple-Family Tract. For the purposes of this Declaration, a parcel of land shall not be deemed a “Public or Commercial Site” until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such property as a public or commercial site is recorded in the Office of the Clerks of Circuit Court of Augusta or Nelson County, Virginia, and further, shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved properties.

(i) “Development Unit Parcel” shall mean and refer to those parcels or tracts of land which have been made subject to covenants and restrictions permitting the division of such parcel or tract into smaller land units such as Residential Lots, Multiple-Family Residential Tracts, or Public or Commercial Sites.

(j) “Unsubdivided Land” shall mean and refer to all land in the Existing Wintergreen Property described in Article II hereof and all land contiguous to or near the Properties, and additions thereto, as are subjected to this Declaration or any supplemental declaration under the provisions of Article II hereof which has not been subdivided into Residential Lots, Back Country Parcels, Multiple-Family Tracts, Public or Commercial Sites, or Development Unit Parcels, through metes and bounds subdivision plats filed for record in the Office of the Clerks of Circuit Court of Augusta or Nelson County, Virginia. For the purposes of this Declaration, the following classifications of Property

shall not be deemed “Unsubdivided Land” and shall be expressly excepted from the definition thereof:

(1) All lands committed to the Association through express, written notification to the Association of intent to convey to the Association.

(2) All lands designated on the Master Plan for intended use or by actual use if applicable, for outdoor recreation facilities; woodland, marsh and swamp conservancies; places of worship; community, civic, and cultural clubs; libraries; nursery and other schools and instructional centers, and charitable institutions.

(3) All lands designated, in any way, as Common Properties.

(k) “Family Dwelling Unit” shall mean and refer to any improved property intended for use as a single-family dwelling, including without limitation any single-family detached dwelling, garden home (Patio or Zero lot line), condominium unit, townhouse unit, cooperative apartment unit, or apartment unit located within the Properties. A parcel of land shall not be deemed to be improved until the improvements being constructed on said parcel are sufficiently complete to be subject to assessment as improved properties.

(l) “Public or Commercial Unit” shall mean and include any improved parcel of land within the Properties which is intended and designated to accommodate public, commercial or business enterprises to serve residents and/or the public, including but not limited to all those enterprises enumerated in subparagraph (h). A parcel of land shall not be deemed to be improved until the improvements being constructed on said parcel are sufficiently complete to be subject to assessment as improved properties.

(m) “Owner” shall mean and refer to the Owner as shown by the real estate records in the Offices of the Clerks of Circuit Court of Augusta or Nelson County, Virginia, whether it be one or more persons, firms, associations, corporations or other legal entities, of fee simple title to any Residential Lot, Back Country Parcel, Family Dwelling Unit, Multiple-Family Tract, Public or Commercial site, Public or Commercial Unit, Development Unit Parcel, or Unsubdivided Land situated upon the Properties but, notwithstanding any applicable theory of a deed of trust, shall not mean or refer to the mortgagee or holder of a deed of trust, its successors or assigns, unless and until such mortgagee or holder of a deed of trust has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term

"Owner" mean or refer to any lessee or tenant of an Owner. In the event that there is recorded in the Offices of the Clerks of the Circuit Court of Augusta or Nelson County, Virginia, a long-term contract of sale covering any lot or parcel of land within the Properties, the Owner of such lot or parcel of land shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

(n) "Tenant" shall mean and refer to the lessee under a written agreement for the rent and hire of a Dwelling Unit or Public or Commercial Unit in Wintergreen.

(o) "Resident" shall mean and refer to each Owner and Tenant of a Dwelling Unit.

(p) "Member" shall mean and refer to all those Owners who are Members of the Association as defined in Section 1 of Article III.

(q) "Master Plan" shall mean and refer to the drawing which represents the conceptual plan for the future development of Wintergreen. Since the concept of the future development of Wintergreen may be subject to revision and change, present and future references to the "Master Plan" shall be references to the latest revision thereof.

(r) "Intended for Use" shall mean the use intended for various parcels within the Properties as shown on the Master Plan of Wintergreen as the same may be revised from time to time, or the use to which any particular parcel of land is restricted by covenants expressly set forth or incorporated by reference in deeds which conveyed the property.

(s) "Common Properties" shall mean and refer to those tracts of land with any improvements thereon which are owned by or leased to the Association and designated in said deed or lease as "Common Properties." The term "Common Properties" shall also include any personal property acquired by the Association if said property is designated a "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the owners, residents, and their guests, and visiting members of the general public (to the extent permitted by the Board of Directors of the

Association) subject to the fee schedules and operating rules adopted by the Association, provided, however, that any lands which are leased by the Association for use as Common Properties shall lose their character as Common Properties upon the expiration of such Lease.

(t) "Referendum" shall mean and refer to the power of all or some specific portion of the Members to vote by mailed ballots on certain actions by the Board of Directors of the Association.

(u) "Wintergreen Partners, Inc." or "Partners" shall mean and refer to Wintergreen Partners, Inc., a Virginia non-stock corporation, its successors and assigns.

ARTICLE II

Section 1. Existing Wintergreen Property. The real property which is, and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these covenants is described as follows:

> All that tract or parcel of land, situate, lying and being in Nelson County and Augusta County , Virginia, which is more particularly described in Exhibit "B" to the Original Declaration.

All of the real property hereinabove described shall sometimes be referred to herein as the "Existing Wintergreen Property."

Section 2. Additions to Existing Wintergreen Property. Additional lands may become subject to this Declaration in the following manner.

(a) *Additions*. During the period of development, which shall by definition extend from date to January 1, 2005, the Developer, its successors, and assigns, shall have the right, without further consent of the Association to bring within the plan and operation of this Declaration the additional property described in Exhibit "B" to the Original Declaration, any property for which such additional property is exchanged if the property acquired by exchange is contiguous or nearly contiguous to the "Properties" or any other property contiguous to properties described in Exhibit "B". Such property may be subjected to this Declaration as one parcel or as smaller parcels at different times. The additions authorized under this and the succeeding subsection,

shall be made by filing a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the covenants and restrictions of the Declaration to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the Plan of this Declaration, but such modifications shall have no effect on the property described in Section 1, Article II above.

(b) *Other Additions*. Upon approval in writing of the Association pursuant to simple majority of the vote of those present at a duly called meeting and if prior to January 1, 2005, the written approval of the Developer, the Owner of any property who desires to add it to the plan of these covenants and to subject it to the jurisdiction of the Association, may file or record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the covenants and restrictions of the Declaration to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the judgment of the Association to reflect the different character, if any, of the added properties and as are not inconsistent with the Plan of this Declaration, but such modification shall have no effect on the property described in Section 1, Article II above.

(c) *Mergers*. Upon merger or consolidation of the Association with another association, as provided for in the by-laws of the Association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Existing Wintergreen Property, together with the covenants and restrictions established upon any other properties, as one plan. No merger or consolidation shall effect any revocation, change, or addition to the covenants established by this Declaration within the Existing Wintergreen Property, including, without limitation, the maximum limits on assessments and dues of

the Association, or any other matter substantially affecting the interests of Members of the Association.

(d) Additional lands which become subject to this Declaration under the provisions of this Section II may in the future be referred to as a part of Wintergreen.

ARTICLE III - MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner shall be a Member of the Association.

Section 2. Voting Rights.

(a) The Association shall have the following two types of regular voting membership and one type of special voting membership:

(1) TYPE “A”: Type “A” Members shall be all Owners of Residential Lots and Family Dwelling Units. A Type “A” Member shall be entitled to one vote for each Residential Lot or Family Dwelling Unit which he owns.

(2) TYPE “B”: Type “B” Members shall be all those Owners of Public or Commercial Units exclusive of the Resort Owner (as hereinafter defined). Type “B” Members shall be entitled to one vote for each 1,000 square feet of enclosed public or commercial space; provided, however, that the Type “B” Owners shall not be permitted to vote for the at-large Directors of the Association, which Directors shall be elected only by the Type “A” Members. In computing the number of votes to which a Type “B” Members shall be entitled, any such unit containing less than 1,000 square feet shall entitle its owner to one vote. In computing the number of vote attributable to Public or Commercial Units, all fractions shall be rounded to the nearest whole number.

(3) TYPE “D”: The owner of the Resort, its successors and assigns (collectively, the “Resort Owner”), shall be the Type “D” Member and shall be entitled to one (1) vote for each Residential Lot or Family Dwelling Unit owned by the Resort Owner, and one (1) vote for each 1,000 square feet of enclosed public or commercial space owned by the Resort Owner, as the case may be; provided, however, that the Resort Owner shall not be permitted to vote for the at-large Directors of the Association, which Directors shall be elected only by the Type “A” Members.

(b) When any property entitling the Owner to membership as a Type “A” or Type “B” Member of the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property or if property is owned by a corporation or other business entity, then such owners shall file with the Secretary of the Association an instrument in writing signed by all such Owners and designating one Owner (or in the case of a corporation, one of its officers) to cast the vote or votes which are attributable to such property.

(c) The principles of this Section shall apply, insofar as possible, to execution of proxies, waivers, consents or objections and for the purpose of ascertaining the presence of a quorum.

Section 3. Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The size and composition of the Board of Directors, and the term of each Director, shall be as set forth in the Bylaws; provided, however, that (i) the size of the Board of Directors shall not be less than five (5) directors; (ii) two (2) Directors shall be appointed by the Type “D” Member and the remainder of the Directors shall be elected by the Type “A” Members at the Annual Meeting of the Association; (iii) at least one (1) at-large Director shall be the Owner of either a Lot or Dwelling Unit located in the Valley Village portion of Wintergreen, as depicted on the Master Plan; and (iv) at least one (1) at-large Director shall be the Owner of either a Lot or Dwelling Unit located in the Mountain Village portion of Wintergreen, as depicted on the Master Plan.

Section 4. Members to Have Power of Referendum in Certain Instances. Where specifically provided for herein, the Members shall have the power to approve or reject certain actions proposed to be taken by the Association by Referendum including, without limitation, an increase of maximum assessments by the Association in excess of that provided for herein, and the addition of functions or services which the Association is authorized to perform. In the event fifty-one percent (51%), or more, of the votes actually returned to the Association within the specified time shall be in favor of such action, the Referendum shall be deemed to “pass” and the action voted upon will be deemed to have been authorized by the Members; provided, however, that if a higher percentage vote required to “pass” shall be specifically expressed herein, that higher percentage shall control in that instance. The Board of Directors may not undertake any action requiring a Referendum without complying with the provisions therefor. The Members may require a Referendum on any action of the Board of Directors by presenting to the

secretary of the Board within sixty (60) days of the taking of such action or ratification by the Board of its intent to take such action a petition signed by not less than twenty percent (20%) of the Members.

Section 5. Quorum Required for any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the Members shall be as provided in the Bylaws, except with respect to proposed amendments of this Declaration, which shall be governed by the quorum requirement established in Article VIII, Section 2 (Amendments) of this Declaration.

Section 6. Proxies. All Members of the Association may vote and transact business at any meeting of the Association by Proxy authorized in writing, provided, however, that Proxies shall not be required for any action which is subject to a Referendum, in which case the votes of all the Members polled shall be made by specially provided ballots mailed or delivered to the Association.

Section 7. Ballots By Mail. When required by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for vote of the Members and a ballot on which each Member may vote for or against each motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 6 of this Article III. Such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

ARTICLE IV - PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment in Common Properties. Subject to the provisions of these covenants, the rules and regulations of the Association, and any fees or charges established by the Association, every Type "A", "B" and "D" Member (except in the case when the property entitling the Owner to membership as a Type "A" or "B" Member of the Association is owned of record in the name of two or more persons or entities then the Owner as designated to vote for the owners of said property according to Article III, Section 2 hereof shall be the sole member for said property except as provided for herein) and every guest or tenant of such Type "A", "B" and "D" Member shall have an easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of every Residential Lot, Back Country Parcel, Family Dwelling Unit, Multiple Family Tract, Public or Commercial Site, Public or Commercial Unit, or Development Unit Parcel.

A Member's spouse and dependent children shall have the same easement of enjoyment hereunder as a Member.

In those instances where a Lot or Dwelling Unit or other property in Wintergreen owned or occupied as a tenant by two (2) or more persons having an equal interest in said property (who do not have the relationship of spouse or child one to the other) or by a corporation, such joint owners of an equal interest in said property or such corporation may appoint up to three (3) persons as "Primary Members". Each such Primary Member shall have the same easement of enjoyment in the Common Properties as Members who own or occupy such property singularly, provided that each property having two (2) Primary Members only, shall pay the same assessment as though the property had only one Primary Member and further provided, that each property having three (3) Primary Members shall pay an assessment 1 ½ times the assessment that would be levied against the property were it owned by an individual alone. Primary Members appointed from a lot owned by a corporation must be officers, directors, or employees of said corporation. The remaining part owners of property at Wintergreen, not designated Primary Members, and the principal officers of a corporation owning property at Wintergreen, not designated Primary Members, shall be entitled to an easement of enjoyment in the Common Properties only as guests of a Primary Member.

Section 2. Purchase or Sale of Common Properties. Common Properties may be acquired by the Association if approved by a vote of sixty percent (60%) of the total votes in a Referendum of Type "A" Members.

Common Properties may be sold or transferred by the Association if approved by a vote of seventy-five percent (75%) of the total votes actually cast in a Referendum of the Residential Owners; provided, however, that if Common Properties are proposed to be sold or transferred to (i) a nonprofit entity whose sole or primary purpose is to serve Wintergreen, or (ii) a public service company serving Wintergreen, or (iii) a political subdivision of the Commonwealth of Virginia, the Association may approve such sale or transfer by a vote of fifty-one percent (51%) of the total votes actually cast in a Referendum of Type "A" Members.

Section 3. Extent of Members Easements. The easements of enjoyment created hereby shall be subject to the following, in addition to being subject to the provisions of the Virginia Property Owners' Association Act, § 55-508 et seq., Code of Virginia (1950), as amended (the "Act"), including the due process provisions of § 55-513:

(a) The right of the Association to assume and pay any liens or encumbrances against the Common Property at the time of conveyance; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosures; and

(c) The right of the Association, to suspend the rights and easements of enjoyment of any Member or Tenant or Guest of any Member for any period during which the payment of any assessment against property owned by such Member remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment, and provided that the Association shall not suspend the right to use any roads belonging to the Association subject to the rules, regulations and fees, if any, established by the Association for such use.

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties, and any facilities included therein, including the right of the Association to charge a reasonable toll for the use of any roadways belonging to the Association, provided, however, that such rights of the Association shall not be construed to impair or qualify an Owner's rights of ingress and egress to his property.

(e) For so long as a Member's assessments payable to the Association are not in arrears, there shall be no fee or toll assessable against such Member, his family, guests, tenants, suppliers, or other business invitees. This paragraph shall be construed to mean that for so long as each Type "D" Member is current in the payment of its assessments due the Association, that its respective suppliers, material men, contractors, agents, guests, prospects and other business invitees, including skiers, shall be exempt from the payment of road tolls and/or use fees. Subject to the payment of Association assessments, Partners shall have the right to park the vehicles of skiers and other resort guests along the road rights-of-way in accordance with any rules and regulations adopted by the Board of Directors to ensure that such parking shall not unreasonably hinder traffic on such roads. Subject to the above limitations, the Board of Directors of the Association shall have the power to place any reasonable restrictions upon the use of the Association's roadways, including, but not limited to the types and sizes of vehicles permitted to use such roads, the maximum and minimum speeds of vehicles using said roads,

all other necessary traffic and parking regulations and the maximum noise levels of vehicles using said roads. The fact that such restrictions on the use of the roads shall be more restrictive than the laws of the Commonwealth of Virginia or of Nelson or Augusta Counties, Virginia, shall not make such restrictions unreasonable.

(f) The right of the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility or drainage easements on any part of the Common Properties.

(g) The right of the Association to give or sell all or any part of the Common Properties, including lease-hold interests, to any public or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gifts or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such dedication, transfers and determinations as to purposes and conditions shall be authorized pursuant to Article IV, Section 2, and subject to the quorum requirements established by Article III, Section 5, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Member of the Association at least thirty (30) days prior to such meeting. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

(h) The rights of reversion of the Lessor of any Common Properties leased by the Association upon expiration of the lease.

(i) The Association shall not infringe upon or in any way inhibit or interfere with the Members' Easements of Enjoyment in the Common Properties by permitting or allowing the above or below ground construction or installation of any lines, facilities, structures or any other appurtenances relating to the transmission of utilities on any Common Properties. This provision shall only apply to transmission line utilities and shall not apply to any utilities that cross upon, above or below any Common Properties for the purpose of providing services or utilities directly to the Association or any Members.

Nothing in this section shall create any rights, remedies or liabilities for any Member in contravention of Va. Code Section 55-516.2.

ARTICLE V - COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. Each Owner covenants, and each Owner of any Residential Lot, Back Country Parcel, Family Dwelling Unit, Multiple Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel, or Unsubdivided Land, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association: (1) Annual assessments or charges; (2) Special assessments or charges for the purposes set forth in this Article; and (3) Individual assessments or charges for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The Annual, Special and Individual assessments, together with such interest at the judgment rate used by the Circuit Courts of Augusta and Nelson Counties, a late payment penalty of fifteen percent (15%) and, costs of collection therefor (including reasonable attorneys' fees) as hereinafter provided, shall be a charge and continuing lien on the real property and improvements thereon against which each such assessment is levied. Each such assessment, together with such interest thereon, late payment penalties and cost of collection (including reasonable attorneys' fees) as hereinafter provided, shall also be the personal obligation of the Owner of such real property at the time when the assessment first became due and payable. In the case of co-ownership of a Residential Lot, Back Country Parcel, Family Dwelling Unit, Multiple Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel, or any Unsubdivided Land, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Assessments. The annual assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement, enlargement and operation of the Common Properties, and to provide services which the Association is authorized to provide. In carrying out these duties, the Association may expend funds derived from the assessments to make payments of principal and interest as consideration for the conveyance to the Association of Common Properties.

Section 3. Application of "Maximum" Assessment. The maximum annual assessment, as set forth in the schedule below, and as is annually increased pursuant to the provisions of subparagraph (g) below, may be levied by the Association. If, however, the Board of the Association, by majority vote, determines that the functions of the Association may be properly funded by an assessment less than that set forth below, it may levy such lesser assessment. The levy of an assessment less than the maximum regular assessment in one year shall not affect

the Board's right to levy the maximum assessment in subsequent years. If the Board of Directors shall levy less than the regular assessment for any assessment year and thereafter, during such assessment year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by majority vote, levy a supplemental assessment. In no event shall the sum of the initial and supplemental regular annual assessments for that year exceed the applicable maximum regular assessments.

If the Board of the Association, by majority vote, determines that the important and essential functions of the Association will not be properly funded in any year by the Maximum Regular Annual Assessment, it may call a Referendum requesting approval of a specified increase in such assessment. Should sixty percent (60%) of the votes cast in such Referendum be in favor of such Referendum, the proposed increased assessment shall be levied. An increase in assessments in any year pursuant to a Referendum taken shall in no way affect assessments for subsequent years.

(a) The maximum annual assessment shall be the sums calculated in accordance with the following schedules as shall be increased in each instance, with the exception of the Amenity Fee (as hereinafter defined), by an inflation adjuster as set forth in this Article V, Section 3(g).

PROPERTY TYPE	MAXIMUM ANNUAL ASSESSMENT
Residential Lots	One (1) Assessment Unit each.
Family Dwelling Units	One and one-half (1.5) Assessment Units each.
Lots or Dwelling Units with Three (3) Primary Members	One and one-Half (1.5) Assessment Units each.
Public & Commercial Units	One (1) Assessment Unit for each vote authorized pursuant to Article III, Section 2 of this Declaration.
Resort	1% of the audited gross revenues of the Resort each year (the "Amenity Fee").

(b) The Assessment unit for 2008 shall be $740.00 *.

** The Assessment unit for 2018 has been set at $1,149.00.*

(c) Property shall not be classified for purposes of these covenants and these Annual Assessments as a Residential Lot until the first day of the Quarter immediately following the date that the property has been conveyed to the initial purchaser.

(d) The Annual Assessments shall be billed annually commencing on the first day of January of each year. The Resort Owner, its successors and assigns, shall permit the Association or its designated Agent to examine its records to the extent reasonably necessary to determine that the proper assessments are being paid. All Assessments shall be due and payable sixty (60) days from the date of mailing the same.

(e) The Owner of any assessable property which changes from one category to another during an assessment year shall be billed for the remaining full quarters of such year to reflect the category change. Upon the initial sale by a developer, “Development Unit Parcels” shall change category to the category of “Residential Lots”, “Family Dwelling Units”, or “Public or Commercial Units”, as the case may be. The date for any category change for a piece of property shall be the date the property was conveyed from a developer or the Type “D” Member to a Type “A” or Type “B” Member. The date for the change in assessment from an undeveloped homesite to a family dwelling unit for a Type “A” Member shall be the date of the occupancy permit therefor. No owner of Type “B” Member property shall be billed for any assessment thereon until a certificate of occupancy shall have been issued for said property.

(f) All assessments charged by the Association shall be rounded off to the nearest dollar.

(g) The maximum annual assessment, with the exception of the Amenity Fee, shall be increased each year by the Board of Directors by an amount not in excess of ten percent (10%) per year over the previous year, or the percentage increase between the first month and the last month on an annual assessment period in the *Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items*, 1982-84=100 (hereafter “C.P.I.”), as published by the U.S. Bureau of Labor Statistics, over the twelve (12)-month period ending with the next-to- last month of the immediately preceding annual assessment period, whichever is larger. However, the Board of Directors may suspend such automatic increase for any one (1) year in its own discretion and may institute such lesser increase as it may determine in the best interests of the Association. In the event that the C.P.I. referred to above shall be discontinued, then there shall be used the most similar index

published by the United States Government that may be procured indicating changes in the cost of living.

Any increase in the fixed amount of the maximum Regular Annual Assessment shall be made in such a manner that the proportionate increase in such assessment is the same for Owners of Residential Lots, Back Country Parcels, Family Dwelling Units, Public or Commercial Units, and Development Unit Parcels. Any time the actual assessment levied by the Board of Directors of the Association is less than the Maximum Regular Annual Assessment such decrease of the actual assessment shall be proportionate among the Owners of Residential Lots, Back Country Parcels, Family Dwelling Units, Public or Commercial Units, and Development Unit Parcels.

Section 4. Special Assessments for Improvements and Additions. In addition to the annual regular assessments authorized by Section 3 hereof, the Board of Directors shall have the power to levy a special assessment against its members if the purpose of doing so is found by the Board to be in the best interests of the Association and the proceeds of the assessment are used primarily for the maintenance and upkeep of the common area and such other areas of responsibility expressly provided in this Declaration, including capital expenditures. A majority of votes cast, in person or by proxy, at a meeting of the membership convened in accordance with the provisions of the Association's bylaws within sixty days of promulgation of the notice of the assessment shall rescind or reduce the special assessment.

This provision shall be interpreted to mean that the Association may make in any one year an annual assessment up to the maximum set forth in Section 3 of this article plus an additional special assessment or assessments. Such special assessment(s) in any one year may not exceed a sum equal to the amount of the maximum regular annual assessment for such year except for emergency or repairs required as a result of storm, fire, natural disaster or other casualty loss. The fact that the Association has made an annual assessment for an amount up to the permitted maximum shall not affect its right to make a special assessment during the year.

The proportion of each special assessment to be paid by the owners of the various classifications of assessable property shall be equal to the proportion of the regular assessments made for the assessment year during which such special assessments are made.

Section 5. Special Assessments for Construction. In addition to the regular annual assessments authorized by Section 3 hereof and the special assessments for improvements and additions authorized by Section 4 hereof, the Association

shall levy a special assessment for construction, the amount of which shall be determined by the Board of Directors and which shall be levied on the following classifications of properties:

PROPERTY TYPE	BASIS OF SPECIAL ASSESSMENT
Detached Single-Family Dwelling	per unit
Attached Multi-Family Dwelling & Condominium Units	per unit
Public & Commercial Units	per 1,000 sq.ft. of enclosed commercial space

In computing the construction assessment attributable to Public or Commercial units, the assessment shall in no case be less than $150.00 and, in the event, that a unit contains a fraction of 1,000 square feet, the assessment for the fraction shall be prorated according to the size of said unit.

This construction assessment shall be levied at the time that the plans for the construction are submitted for approval to the Wintergreen Architectural Review Board. This construction assessment shall be levied against all Type “A”, Type “B” and Type “D” members of the Association. All assessments for construction shall be used for the same purposes as the annual assessments levied by the Association.

Section 6. Reserve Funds. The Association may establish reserve funds from its regular annual assessments to be held in reserve in an interest drawing account or investments as a reserve for (a) major rehabilitation or major repairs, (b) for emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss, and (c) initial costs of any new service to be performed by the Association.

Section 7. Change in Maximum Amounts of Annual Assessments Upon Merger or Consolidation. The limitations of Section 3 hereof shall apply to any merger or consolidation in which the Association is authorized to participate under Article II, Section 2, hereof, and under the Bylaws of the Association.

Section 8. The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence against all but the Owner of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of

the Owner; the Lien; Remedies of Association. If the assessment is not paid on or before past-due date specified in Section 3 hereof, then such assessment shall become delinquent and shall (together with interest thereon at the maximum annual rate permitted by law from the due date, late payment penalties and cost of collection thereof as hereinafter provided) become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made, in the hands of the then Owner, his heirs, devisees, personal representatives, tenants, and assigns.

If the assessment is not paid within thirty (30) days after the past due date, the Association may bring an action at law against the Owner personally and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee together with the costs of the action.

Section 10. Subordination of the Lien to Deeds of Trust. The lien of the assessments provided for herein shall be subordinate to the lien of any deed or deeds of trust now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to foreclosure, or any other proceeding or deed in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments accruing after conveyance by the creditor to a subsequent owner, provided, however, that the creditor shall not be liable for assessments until it has held title to the property for more than one (1) year. Sums collected by foreclosure of said Deed of Trust shall be applied first to the indebtedness secured thereby and all cost of collection, second to past due assessment and third to assessments which have accrued but have not become due and payable.

Section 11. Exempt Property. The following property, individuals, partnerships or corporations subject to this Declaration shall be exempted from the assessment, charge and lien created herein:

(a) The grantee in conveyances made for the purpose of granting utility easements;

(b) All Common Properties;

(c) Property which is used for any of the following purposes:

(1) In the maintenance and service of facilities within Common

properties;

(2) Places of worship;

(3) Schools;

(4) Non-profit, governmental, and charitable institutions.

Section 12. Annual Statements. The President, Treasurer, or such other officer as may have custody of the funds of the Association shall annually, within ninety days after the close of the fiscal year of the Association, prepare and execute under oath a general itemized statement showing the actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses. It shall be necessary to set out in the statement the name of any creditor of the Association, provided, however, that this requirement shall be construed to apply only to creditors of more than $1,000.00. Such officer shall furnish to each Member of the Association who may make request therefor in writing, a copy of such statement, within thirty (30) days after receipt of such request. Such copy may be furnished to the Member either in person or by mail.

Section 13. Annual Budget. The Board of Directors shall prepare and make available to all Members at least thirty (30) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following fiscal year. The financial books of the Association shall be available for inspection by all Members at all reasonable times.

Section 14. Individual Assessment. The Board of Directors shall have the power to assess an Owner's Lot or Dwelling Unit or other property individually: (i) for the amount of any charges imposed on that Owner pursuant to Article VII (Architectural Review of Common Properties); (ii) for any costs incurred by the Association for which that Owner is responsible under Article VIII, Section 10 (Additional Liability); and (iii) for contractual charges levied pursuant to Section 15 hereof (Optional Expenses) and Article VI, Section 3 (Services). Each such Individual assessment shall be due within thirty (30) days after notice thereof is given to the Owner unless the notice specifies a later date.

Section 15. Optional Expenses. Upon request, the Association may provide certain services, as specified in Article VI, Section 3, to Owners on a contractual basis; provided, however, that the charge for such services shall be assessed against such Owner's Lot(s) or Dwelling Unit(s) or other property within Wintergreen in accordance with the terms of the contract.

Section 16. Transfer Fee. The developer of each unit or lot located within those areas of the Master Plan labeled as "Future Development" shall pay to the Association, unless expressly waived in writing by the Board of Directors, the Transfer Fee (as hereinafter defined) upon the first sale of a newly constructed dwelling or unit. The Transfer Fee shall be paid to the Association at closing upon such transfer and, unless otherwise determined by the Board of Directors, used by the Association to maintain the Common Properties. Payment of the Transfer Fee shall be the joint and several obligations of both the selling and the purchasing Owners. In the event of non-payment of such Transfer Fee, the amount due shall bear interest as set forth in Article V, Section 1, of the Declaration, shall constitute a lien on the developer's property in Wintergreen, and shall be collectible as an Assessment. The Transfer Fee for 2008 shall be equal to $2467.00 and shall be subject to annual increase pursuant to the inflation adjuster specified in subsection (g) of Article V, Section 3.

ARTICLE VI - FUNCTIONS OF ASSOCIATION

Section 1. Ownership and Maintenance of Common Properties. The Association shall be authorized to own, lease and/or maintain common properties and equipment, furnishings, and improvements devoted to the following uses:

(a) For roads or roadways, and parkways along said roads or roadways throughout the Properties;

(b) For sidewalks, walking paths or trails, bicycle paths, jeep trails, equestrian centers, and bridle paths throughout the properties;

(c) For transportation facilities throughout the Properties other than privately owned automobiles, e.g. buses, electric vehicles, etc., paid for by special assessment as provided for in Article V, Section 4 hereof.

(d) For security and fire protection services including security stations, maintenance building and/or guardhouses, police equipment and fire stations and fire fighting equipment; and buildings used in maintenance functions.

(e) For emergency health care including ambulances and emergency care medical facilities and the equipment necessary to operate such facilities;

(f) For providing any of the services which the Association is authorized to offer under Section 3 of this Article;

(g) For purposes set out in deeds or long-term leases by which Common Properties are conveyed or leased to the Association, provided that such purposes shall be approved by the Members of the Association as set out in Section 4 of this Article;

(h) For lakes, play fields, camps and campgrounds, lookout stations, historic parks, wildlife areas, fishing facilities, other recreational facilities of any nature, and community meeting facilities serving the Properties; and

(i) For water and sewage facilities and any other utilities, if not adequately provided by a private utility, Nelson County or Augusta County, or some other public body.

Section 2. Authority to Purchase Common Properties. The Association shall be authorized to purchase or lease properties following approval of the Members pursuant to the requirements of Section 2 of Article IV hereof. The purchase price may be financed, in whole or in part. The general terms of the financing must also be approved by the Members pursuant to the requirements of Section 2 of Article IV hereof.

Section 3. Services. The Association shall be authorized but not required to provide the following services:

(a) The Association shall be responsible for the management, maintenance and upkeep of all of the Common Properties, including without limitation: (i) open areas; (ii) roadways; and (iii) all other improvements located on the Common Properties. The cost of such management, maintenance and upkeep shall be charged to Owners as a Common Expense. If the Board of Directors determines that certain maintenance or upkeep was necessitated by the negligence, misuse or willful misconduct of an Owner or for which an Owner is responsible pursuant to Article VIII, Section 10, the cost of such maintenance or upkeep shall be assessed against such Owner's property at Wintergreen pursuant to Article V, Section 2(e). The Board of Directors shall establish the standards for maintenance and upkeep of the Common Properties in its sole discretion.

(b) The Association shall be authorized but not required to provide the following services:

(1) Landscaping of roads and parkways, sidewalks and walking paths and any Common Properties;

(2) Transportation facilities other than privately owned automobiles, e.g., buses, electric vehicles, etc., paid for by special assessment as provided for in Article V, Section 4 hereof;

(3) Lighting of roads, sidewalks and walking paths throughout the Properties;

(4) Police protection and security, including but not limited to the employment of police and security guards, maintenance of electronic and other security devices and control centers for the protection of persons and property within the Existing Wintergreen Property, and assistance in the apprehension and prosecution of persons who violate the laws of Virginia within the Properties;

(5) Fire protection and prevention;

(6) Garbage and trash collection and disposal;

(7) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the state and local governments;

(8) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;

(9) Maintenance of all lakes, streams and creeks located within the properties, including the stocking of such lakes, streams and creeks;

(10) To take any and all actions necessary to enforce all covenants and restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Properties;

(11) To set up and operate an Architectural Review Board;

(12) Improvement of fishing available to Members within the Properties;

(13) To conduct recreation, sport, craft, and cultural programs of interest to Members, their children and guests;

(14) To provide legal and scientific resources for the improvement of air and water quality within the Properties;

(15) To maintain water search and rescue boats for the protection and safety of those in the waters located on or adjacent to the Properties;

(16) To provide safety equipment for storm emergencies;

(17) To support the operation of transportation services between key points of the Properties and the airports, other public transportation terminals and public centers serving the area surrounding the Properties with special assessment on the resort area as provided for in Article V, Section 4 hereof;

(18) To construct improvements on Common Properties for use for any of the purposes or as may be required to provide the services as authorized in this Article;

(19) To provide administrative services including but not limited to: legal, accounting and financial; and communication services informing Members of Activities, Notice of Meeting, Referendums, etc., incident to the above listed services;

(20) To provide liability and hazard insurance covering improvements and activities on the Common Properties;

(21) To provide water, sewage and any necessary utility services not provided by a public body or private utility;

(22) To provide, conduct, or maintain water pollution and shoreline erosion abatement measures including, without limitation, maintenance and repair of shore revetments and groins;

(23) To provide emergency, general and technical rescue services, including necessary and appropriate personnel, vehicles, equipment and facilities related thereto;

(24) To provide any or all of the above-listed services under a written contract, the terms of which must be approved by the Board of Directors, to another association of owners of real property or to a political subdivision of the Commonwealth of Virginia.

Section 4. Obligation of the Association. With the exception of the duties imposed upon the Association by this Declaration and the Act, the Board of Directors shall determine which of the functions and services specified by the provisions of this Article shall be provided. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association. Special assessments shall be submitted for referendum as herein provided.

Section 5. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions.

ARTICLE VII- ARCHITECTURAL REVIEW OF COMMON PROPERTIES

Section 1. Architectural Review. No building, wall, fence, swimming pool, or other structure shall be commenced, erected, or maintained upon the Common Properties, nor shall any landscaping be done, nor shall any exterior addition to any existing structure or change or alteration therein, be made until the plans and specifications therefor showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony and compatibility of its external design and location, with the surrounding structures and topography, by the Architectural Review Board. This paragraph shall not apply to any property utilized by a governmental entity or institution.

The Architectural Review Board shall be composed of at least three (3) but not more than five (5) Members, all of whom shall be appointed by the Board of Directors of the Association.

ARTICLE VIII- GENERAL PROVISIONS

Section 1. Duration. The Covenants and restrictions of this Declaration shall run with the land, and shall inure to the benefit of and be enforceable by the Association, the holder of any approval rights pursuant to assignment or transfer from the Developer, and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Declaration is recorded. Upon the expiration of said twenty-five (25) year period this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10)

year renewal periods hereunder shall be unlimited and this Declaration shall be automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial twenty-five (25) year period, or during the last year of any subsequent ten (10) year renewal period, three-fourths (3/4) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each Member at least thirty (30) days in advance of said meeting. In the event that the Members of the Association vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Offices of the Clerks of Circuit Court of Augusta and Nelson Counties, Virginia and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendments. The procedure for amendment shall be as follows: All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting vote in favor of such proposed amendment. Notice shall be given to each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall set forth the amendment, the effective date of the amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such amendment was adopted), the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes necessary to adopt the amendment, and the total number of votes cast against the amendment. Such Addendum shall be recorded in the Offices of the Clerks of the Circuit Court of Augusta and Nelson Counties, Virginia.

The quorum required for any action authorized to be taken by the Association under this Section 2 shall be as follows:

The first time any meeting of the Members of the Association is called to take action under this Section 2 the presence at the meeting of the Members or proxies entitled to cast sixty percent (60%) of the total vote of the Membership shall constitute a quorum. If the required quorum is not present at any such meeting, a second meeting may be called subject to the giving of proper notice and the required quorum at such subsequent meeting shall be the presence of Members or proxies entitled to cast fifty percent (50%) of the total vote of the Association.

Section 3. Notices. Any notice required to be sent to any Member under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the address appearing on the Association's Membership list. Notice to one of two or more co-owners or co-tenants of real property in Wintergreen shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes a Member following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor in title.

Section 4. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person, persons, or entity violating or attempting to violate or circumvent any covenant or restriction, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these covenants; and failure by the Association or any Member or any holder of any approval rights pursuant to assignment or transfer from the Developer to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 5. Severability. Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 6. Interpretation. The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration of Covenants and Restrictions and to construe and interpret its provisions, and its determination, construction or interpretation, shall be final and binding. In all cases, the provisions of this Declaration of Covenants and Restrictions shall be given that interpretation or construction that will best tend toward the consummation of the general plan of improvements.

Section 7. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the Bylaws of the Association, unless the terms of this instrument provide otherwise.

Section 8. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals contemplated under this Declaration, neither the Association nor the holder of any approval rights pursuant to assignment or transfer from the Developer shall be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted, or withheld.

Section 9. Termination of Association. In the event that this Declaration be declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, or if the Members of the Association should vote not to renew and extend this Declaration as provided for in Article VIII, Section 1, all Common Properties owned by the Association at such time shall be transferred to a Trustee appointed by the Circuit Court of Augusta or of Nelson County, Virginia which Trustee shall own and operate said Common Properties for the use and benefit of Owners within the Properties as set forth below:

(a) Each lot or parcel of land located within the Properties shall be subject to an annual assessment which shall be paid by the Owner of each such lot or parcel to the Trustee. The amount of such annual assessment and its due date shall be determined solely by the Trustee, as the case may be, but the amount of such annual assessment on any particular lot or parcel shall not exceed the amount actually assessed against that lot or parcel in the last year

that assessments were levied by the Association, subject to the adjustments set forth in subparagraph (b) immediately below.

(b) The rate of the minimum and maximum annual assessment which may be charged by the Trustee hereunder on any particular lot or parcel may be automatically increased each year by either ten percent (10%) or the percentage increase between the first month and the last month of the annual assessment period in the Consumer Price Index, U.S. City Average, All Items (1967-100) (hereafter "C.P.I.") issued by the U.S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas", whichever of these two percentage figures is larger. The actual amount of such increase in the regular maximum annual assessment on a lot or parcel shall equal the regular maximum annual assessments on such lot or parcel for the previous year multiplied by the larger of the two percentage factors set forth above. If the C.P.I. is discontinued, then there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living.

(c) Any past due annual assessment together with interest thereon at the maximum rate of interest permitted by law from the due date and all costs of collection including reasonable attorney's fees shall be a personal obligation of the Owner at the time the annual assessment became past due, and it shall also constitute and become a charge and continuing lien on the lot or parcel of land and all improvements thereon against which the assessment has been made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

(d) The Trustee shall be required to use the funds collected as annual assessments for the operation, maintenance, repair and upkeep of the Common Properties. The Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. The Trustee shall not have the obligation to provide for operation, maintenance, repair and upkeep of the Common Properties, once the funds provided by the annual assessment have been exhausted.

(e) The Trustee shall have the power to dispose of the Common Properties free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by fifty-one percent (51%) of the Owners of property within the Properties or in the alternative shall be found to be in the best interest of the Owners of property within the Properties by the Circuit Courts of Nelson and Augusta Counties, Virginia. The proceeds of

such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Properties, second for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair and upkeep of such Properties, third for the payment of any obligations distributed among the Owners of property within the Properties, exclusive of the Trustees, in a proportion equal to the portion that the maximum annual assessment on property owned by a particular Owner bears to the total maximum annual assessments for all property located within the Properties.

Section 10. Additional Liability. Each Owner shall be liable to the Association for any costs incurred by the Association and the expenses of all upkeep and maintenance rendered necessary by such Owner's act or omission or the act or omission of such Owner's tenant and such Owner's (or tenant's) household members, guests, employees, agents or invitees, regardless of neglect or culpability, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Association. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse or occupancy of the Common Properties. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation. Any costs, including without limitation legal fees, incurred as a result of a failure to comply with the Declaration, Articles, Bylaws and such rules and regulations as the Board may enact by any Owner may be assessed against such Owner's property in Wintergreen as an Individual assessment.

DECLARATION SUBJECTING A PORTION OF WINTERGREEN NELSON AND AUGUSTA COUNTIES, VIRGINIA TO A COVENANT AND RESTRICTION AGAINST TIME-SHARING

THIS DECLARATION, made this the 31st day of August, 1984, by Wintergreen Development, Inc., hereafter called, "Company",

WITNESSETH:

WHEREAS, the Company is the owner of certain real property described herein and desires to create thereon a planned development community with a balanced representation of residential, commercial and recreational uses to be known as "Wintergreen", which is more fully described on Exhibit A attached hereto; and

WHEREAS, the Company desires to provide for the preservation of values and to that end desires to restrict the development of time-sharing within Wintergreen.

Now, THEREFORE, KNOW **ALL MEN BY THESE PRESENTS**, that the Company, as evidenced by its execution of this Declaration, hereby subjects all real property described on Exhibit A hereto to the following covenant and restriction which shall run with the land and shall be binding on all parties and persons claiming under them including the Company, any successors in interest, and any and all grantees from the Company or its successors:

The Company hereby agrees for itself, its successors and assigns that no portion of the real estate described on Exhibit A hereto shall be used for the creation of any "time-share program" as such term is defined in the Virginia Real Estate Time Share Act, Chapter 21 of Title 5 of the Code of Virginia of 1950, as in effect as of the date hereof in the event of a violation or breach of this Covenant, any owner of any of the property described on Exhibit A hereto, the Wintergreen Property Owner's Association, Inc., Wintergreen Partners, Inc. or the Company, jointly and severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof. The failure to enforce any rights or restrictions contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or a bar to such right to enforce.

WITNESS the following execution:

WINTERGREEN DEVELOPMENT, INC.
By: L. F. Payne, Jr.

STATE OF VIRGINIA

To-Wit:

COUNTY OF NELSON

The foregoing instrument was acknowledged before me this the 31st. of August, 1984, by L. F. Payne, Jr. as President of Wintergreen Development, Inc. on behalf of the Company.

My commission expires: 1-20-87

LESLEY A. ROWE

AFFIX
NOTARIAL
SEAL:

Exhibit A describes all property conveyed by Melba Investors Southeast, Inc. to Wintergreen Development, Inc. on August 31, 1985.