

## AFFIDAVIT OF CORRECTION

Document Number

461562

(TYPE OR PRINT CLEARLY IN BLACK OR RED INK)

AFFIANT, Nancy L. Chadwick, hereby swears or affirms that a certain document which was titled as follows: Timber Bay Amended and Restated Declaration of Covenants Conditions and Restrictions, recorded on the 29th day of September, 2006, in the office of the Adams County, Wisconsin, Register of Deeds as document number 459226 (hereafter, the "Declaration"), contained the following error (if more space is needed, please attach addendum):

PARAGRAPH 6.D OF ARTICLE VII of the Declaration provides, in error, as follows: Upon (i) the adoption and approval of the annual Parcel 3 Limited Common Area Budget by a majority of the votes cast at a regular meeting of the Association (or adjournment thereof) by Members who own any part of Parcel 3, or (i) [sic] the approval of a special assessment under paragraph F, the Board of Directors of the Association may levy an assessment against each Timber Bay Lot within Parcel 3 for costs relating to the Parcel 3 Limited Common Area Budget ("Parcel 2 Limited Common Area Assessment").

PARAGRAPH 6.F OF ARTICLE VII of the Declaration erroneously provides (in part) as follows:

As to a proposed special assessment relating to the Common Area: (i) a quorum shall require the presence of a majority of the votes entitled to be cast by all Members; and (ii) the adoption and approval of such special assessment shall require that a majority of such votes be cast in favor of such adoption and approval. As to a proposed special assess-

ment relating exclusively to the Parcel 2 Limited Common Area, (i) a quorum shall require the presence of a majority of the votes entitled to be cast by all Members who own any Lot within Parcel 2; and (ii) the adoption and approval of such special assessment shall require that a majority of the eligible votes so cast in favor of such adoption and approval. As to a proposed special assessment relating exclusively to the Parcel 3 Limited Common Area, (i) a quorum shall require the presence of a majority of the votes entitled to be cast by all Members who own any Lot within Parcel 3; and (ii) the adoption and approval of such special assessment shall require that a majority of the eligible votes so cast in favor of such adoption and approval.

AFFIANT makes this affidavit for the purpose of correcting the above document as follows (if more space is needed, please attach addendum): FIRST, that the phrase underlined above from Paragraph 6.D of Article VII of the Declaration should in fact read "Parcel 3 Limited Common Area Assessment", and thus is hereby corrected to so read; and SECOND, that the phrases underlined above from Paragraph 6.F of Article VII of the Declaration should in fact read "be cast in favor", and thus are hereby corrected to so read.

A copy of the original document (in part or whole) ☒ is ☐ is not attached to this Affidavit (if a copy of the original document is not attached, please attach legal description and names of grantors and grantees).

Dated: 12/14/06Signed: Nancy L. Chadwick

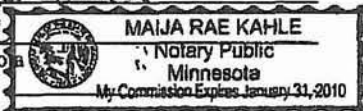
\* Nancy L. Chadwick of Naterra Land, Inc.

State of Minnesota )  
 ) ss.  
County of Hennepin )

Subscribed and sworn to (or affirmed) before me this 14 day of December, 2006.

MAIJA RAE KAHLE

\* MAIJA RAE KAHLE  
Notary Public, State of Minnesota  
My Commission (expires) (is):



AFFIANT is the (check one):

- ☒ Drafter of the document being corrected.  
☐ Owner of the property described in the document being corrected.  
☐ Other - explain:

This instrument is drafted by: Michael J. Ostermeyer, Quarles & Brady LLP, 411 E Wisconsin Avenue, Milwaukee, WI 53202.

THIS FORM IS INTENDED TO CORRECT SCRIVNER'S ERRORS AND NOT FOR THE CONVEYANCE OF REAL PROPERTY.

\*Names of persons signing in any capacity must be typed or printed below their signature. WRDA version V - 9/20/1999

Recorded-Adams County WI  
Register of Deeds Office-  
Jodi M. Helgeson-Register

DEC 18 2006

Time: 11:05am  
Recording Fee: 59.00  
Transfer Fee: —  
# of Pages: 25  
Receipt # 9324

Recording Area

GOETZ ABSTRACT & TITLE  
P.O. Box 906  
Wisconsin Rapids, WI 54495-0906  
715-424-2200

Parcel Identification Number (PIN)

**TIMBER BAY  
AMENDED AND RESTATED  
DECLARATION OF  
COVENANTS CONDITIONS  
AND RESTRICTIONS**

Document Number

Title of Document

**459226**

Recorded-Adams County WI  
Register of Deeds Office-  
Jodi M. Helgeson-Register

**THIS AMENDED AND RESTATED DECLARATION,**

is made this 28<sup>TH</sup> day of September, 2006, by Naterra Land,  
Inc., a Corporation under the laws of the State of Minnesota  
("Declarant").

SEP 29 2006  
Time: 8:50 AM  
Recording Fee: 57.00  
Transfer Fee: —  
# of Pages: 24  
Receipt # 6772

Return to:  
Naterra Land, Attn. Keith  
2825 Post Road  
Stevens Point, WI 54481

**WHEREAS**, Naterra Land, Inc. was named as Declarant in that certain Declaration of  
Covenants, Conditions and Restrictions dated August 15, 2006, recorded August 28, 2006, as  
Document No. 458269 in the office of the Adams County, Wisconsin, Register of Deeds  
("Declaration");

**WHEREAS**, the Declaration governed, and continues to govern, certain real property  
located in the Towns of Quincy and Strong's Prairie, Adams County, Wisconsin, more  
particularly described as follows:

Lots One (1) through Nine (9), inclusive; Lot Eighteen (18); and Lots Twenty-Two (22)  
through Forty-Four (44), inclusive; all in Timber Bay, Town of Quincy, Adams County,  
Wisconsin (collectively, "Parcel 1," individually "Lot [lot number]");

Lots Ten (10) through Seventeen (17), inclusive, Timber Bay, Town of Quincy, Adams  
County, Wisconsin (collectively, "Parcel 2," individually "Lot [lot number]");

Lots Nineteen (19) through Twenty-One (21), inclusive, Timber Bay, Town of Quincy,  
Adams County, Wisconsin (collectively, "Parcel 3," individually "Lot [lot number]");

Outlots One (1), Two (2), Three (3) and Four (4), all in Timber Bay, Town of Quincy,  
Adams County, Wisconsin (collectively, the "Timber Bay Outlots," individually,  
"Outlot [outlot number]");

**459226**

Part of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 5 East, Town of Strongs Prairie, Adams County, Wisconsin, described as follows: Commencing at the South Quarter corner of said Section 5, thence S 89°53'52" E along the South line of the Southeast Quarter of said Section 5 and the North line of the Adams County Plat of Timber Bay and an extension thereof a distance of 689.23 feet to the Northerly corner of Lot 19 of said Adams County Plat of Timber Bay and the POINT OF BEGINNING, thence N 58°35'02" E a distance of 330.95 feet, thence S 84°37'31" E a distance of 292.73 feet, thence S 70°21'10" E a distance of 45.37 feet to the East line of the Southwest Quarter of the Southeast Quarter of said Section 5, thence S 03°16'44" E along said East line a distance of 131.16 feet to the Southeast corner thereof and the Northeast corner said Adams County Plat of Timber Bay, thence N 89°53'52" W along the North line of said Adams County Plat of Timber Bay a distance of 624.12 feet to the Northerly corner of Lot 19 of said Adams County Plat of Timber Bay and the POINT OF BEGINNING ("Strongs Prairie East"); and

Part of the Southeast Quarter of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 5 East, Town of Strongs Prairie, Adams County, Wisconsin, described as follows: BEGINNING at the South Quarter corner of said Section 5, thence N 88°34'53" W along the South line of the Southwest Quarter of said Section 5 and the North line of the Adams County Plat of Timber Bay a distance of 1304.44 feet to the Northwest corner of Lot 10 of said Adams County Plat of Timber Bay, thence N 50°03'26" E a distance of 48.85 feet, thence S 89°37'03" E a distance of 166.64 feet, thence N 71°29'34" E a distance of 185.53 feet, thence N 48°45'00" E a distance of 107.35 feet, thence N 50°50'13" E a distance of 195.92 feet, thence N 73°29'48" E a distance of 85.34 feet, thence N 61°54'05" E a distance of 116.01 feet, thence N 22°52'26" E a distance of 375.82 feet, thence S 45°42'14" E a distance of 295.54 feet, thence S 54°24'20" E a distance of 129.79 feet, thence S 72°00'09" E a distance of 96.64 feet, thence N 90°00'00" E a distance of 64.32 feet, thence S 14°45'09" E a distance of 131.83 feet, thence S 47°54'19" E a distance of 130.51 feet, thence S 76°54'20" E a distance of 121.51 feet, thence S 22°09'22" E a distance of 202.53 feet to the Northwest corner of Lot 18 of said Adams County Plat of Timber Bay, thence N 89°53'52" W along the North line of said Adams County Plat of Timber Bay a distance of 437.29 feet to the South Quarter corner of said Section 5 and the POINT OF BEGINNING ("Strongs Prairie West").

For purposes of this Amended and Restated Declaration, Parcels 1, 2 and 3 may collectively be referred to herein as the "Timber Bay Lots," and the Timber Bay Lots, the Timber Bay Outlots, Strongs Prairie East, and Strongs Prairie West may collectively be referred to herein as the "Subject Property";

**WHEREAS**, Declarant is the record owner in fee simple absolute of the following described portions of the Subject Property, which portions (in the aggregate) constitute not less than two-thirds of the Timber Bay Lots and not less than two-thirds of the Subject Property:

Lots One (1) through Four (4), inclusive; Lots 7 and 8; Lots Ten (10) through Twenty-Three (23), inclusive; Lots Twenty-Seven (27) through Twenty-Nine (29), inclusive; Lots Thirty-One (31) through Thirty-Three (33), inclusive; and Lots Thirty-Seven (37) through Forty (40), inclusive; and Lots 42 and 44, all in Timber Bay, Town of Quincy, Adams County, Wisconsin;

Outlots One (1), Two (2), Three (3) and Four (4), all in Timber Bay, Town of Quincy, Adams County, Wisconsin;

Part of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 5 East, Town of Strongs Prairie, Adams County, Wisconsin, described as follows: Commencing at the South Quarter corner of said Section 5, thence S 89°53'52" E along the South line of the Southeast Quarter of said Section 5 and the North line of the Adams County Plat of Timber Bay and an extension thereof a distance of 689.23 feet to the Northerly corner of Lot 19 of said Adams County Plat of Timber Bay and the POINT OF BEGINNING, thence N 58°35'02" E a distance of 330.95 feet, thence S 84°37'31" E a distance of 292.73 feet, thence S 70°21'10" E a distance of 45.37 feet to the East line of the Southwest Quarter of the Southeast Quarter of said Section 5, thence S 03°16'44" E along said East line a distance of 131.16 feet to the Southeast corner thereof and the Northeast corner said Adams County Plat of Timber Bay, thence N 89°53'52" W along the North line of said Adams County Plat of Timber Bay a distance of 624.12 feet to the Northerly corner of Lot 19 of said Adams County Plat of Timber Bay and the POINT OF BEGINNING; and

Part of the Southeast Quarter of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 5 East, Town of Strongs Prairie, Adams County, Wisconsin, described as follows: BEGINNING at the South Quarter corner of said Section 5, thence N 88°34'53" W along the South line of the Southwest Quarter of said Section 5 and the North line of the Adams County Plat of Timber Bay a distance of 1304.44 feet to the Northwest corner of Lot 10 of said Adams County Plat of Timber Bay, thence N 50°03'26" E a distance of 48.85 feet, thence S 89°37'03" E a distance of 166.64 feet, thence N 71°29'34" E a distance of 185.53 feet, thence N 48°45'00" E a distance of 107.35 feet, thence N 50°50'13" E a distance of 195.92 feet, thence N 73°29'48" E a distance of 85.34 feet, thence N 61°54'05" E a distance of 116.01 feet, thence N 22°52'26" E a distance of 375.82 feet, thence S 45°42'14" E a distance of 295.54 feet, thence S 54°24'20" E a distance of 129.79 feet, thence S 72°00'09" E a distance of 96.64 feet, thence N 90°00'00" E a distance of 64.32 feet, thence S 14°45'09" E a distance of 131.83 feet, thence S 47°54'19" E a distance of 130.51 feet, thence S 76°54'20" E a distance of 121.51 feet, thence S 22°09'22" E a distance of 202.53 feet to the Northwest corner of Lot 18 of said Adams County Plat of

Timber Bay, thence N 89°53'52" W along the North line of said Adams County Plat of Timber Bay a distance of 437.29 feet to the South Quarter corner of said Section 5 and the POINT OF BEGINNING.

WHEREAS, Declarant wishes to amend and restate the Declaration, in its entirety, as set forth herein.

NOW THEREFORE, Declarant hereby amends and restates the Declaration, in its entirety, as follows:

**WITNESSETH:**

WHEREAS, the Subject Property also includes four common piers, two day use piers and one wooden stairway (collectively, said piers and the wooden stairway are referred to herein as the "Amenities") on the Shoreline Commons Area (as shown on Exhibit C), as well as the right to use the aforesaid Shoreline Commons Area. The right to use the Amenities and the Shoreline Commons Area is subject to the provisions of the Nonexclusive License Agreement by and between Declarant and Wisconsin River Power Company, recorded September 13, 2006 in the office of the Adams County Register of Deeds as Document No. 458741 (the "License Agreement"). Declarant intends to assign its interest in the License Agreement to Timber Bay Waterfront Community Association, Ltd. (the "Association").

WHEREAS, Declarant desires to provide for the preservation of the values and amenities of the Subject Property and, to this end, desires to subject the Subject Property to the covenants, conditions, restrictions and charges hereinafter set forth, each and all of which is and are for the benefit of the Subject Property as a whole and all owners of any part thereof.

**NOW, THEREFORE,** Declarant does hereby give notice to all purchasers and their successors of any portion of the Subject Property herein before described and whomsoever it may concern that the Subject Property is, and each and every conveyance of any portion of the Subject Property will be, subject to all of the covenants, conditions, restrictions, charges, and other provisions set forth in this Amended and Restated Declaration, all of which will inure to the benefit of and pass with the Subject Property, and each and every parcel thereof, and shall apply to and bind each successor in interest, and any owner thereof.

## **ARTICLE I**

### **GENERAL PURPOSE**

The purpose of this Amended and Restated Declaration is to insure the best use and the most appropriate development and improvement of the Subject Property; to protect owners of the Subject Property against such use of surrounding property as will detract from the value of their property; to preserve, so far as practicable, the natural beauty of the Subject Property; to insure the highest and best development for the Subject Property, to encourage and secure the erection of attractive structures thereon with appropriate locations thereof on each parcel; to promote harmonious improvement of the Subject Property; to secure and maintain proper setbacks from the roads, and adequate free spaces between structures; and in general to provide adequately for a high type in quality and improvement in the Subject Property, and thereby to preserve and enhance the value of investments made by purchasers of the Subject Property therein.

459226

ARTICLE II

USE OF LAND

All terms, regulations and conditions of any applicable township, county or state zoning or subdivision ordinances, statute or regulation shall be and remain in effect as to the Subject Property.

No noxious or offensive trade or activity shall be carried on upon the Subject Property, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

No mobile homes, junk cars or shacks shall be permitted on the Subject Property, nor shall any structure of a temporary character be used as a dwelling thereon. Camping is not permitted on the Subject Property.

No on-site un-housed storage will be allowed upon the Subject Property for excess material and infrequently used vehicles. Storage of snowmobiles, boats, trailers, campers, golf carts and other seasonal items frequently used off of the Subject Property will be allowed, provided they are not kept closer than 30 feet from any public road and 15 feet from the property line of any Lot or Outlot.

Outdoor toilets shall not be permitted upon the Subject Property.

No horses, cows, goats, pigs, sheep, poultry or fowl of any kind will be permitted to be kept on any part of the Subject Property. Pets will be permitted and shall be properly restrained so as to avoid becoming an annoyance or nuisance to the neighborhood and shall be in accordance with any other applicable ordinance. No exterior lighting upon the Subject Property may interfere with the use and enjoyment of neighboring Lots or Outlots.

The Association may allow access to the Timber Bay Outlots to outside entities (snowmobile club, adjoining property owners, etc.). Outlot 2 shall be open to the public for ingress and egress to the Shoreline Commons Area. Easements established along the lot lines dividing Lot 5 from Lot 6 and Lot 9 from Lot 10, respectively (as identified on Exhibit B) shall be used only by owners of the Timber Bay Lots for the purpose of ingress and egress to the Shoreline Commons Area. Outlot 2, any areas made subject to easements established along the lines dividing Lot 5 from Lot 6 and Lot 9 from Lot 10, and any other areas later made subject to any easements granted by Declarant with respect to any portion of the Subject Property shall together be known for purposes of this Amended and Restated Declaration as the "Easement Areas."

No seawalls or other shoreline stabilization measures are allowed on the Shoreline Commons Area without prior written authorization from the Wisconsin Department of Natural Resources, the Adams County Zoning office, and Wisconsin River Power Company.

### ARTICLE III

#### TYPE OF MATERIAL : SIZE OF STRUCTURE

All structures erected on any of the Timber Bay Lots shall be of new materials and new construction and shall be completed within one (1) year after commencement of construction. Building exterior must be of brick, stone, metal, wood or maintenance free siding (example, steel, vinyl, aluminum) and such exterior must be suitably finished.

Modular (factory) homes built on site on any of the Timber Bay Lots must meet State of Wisconsin Uniform Dwelling Code requirements and shall have a minimum roof pitch of 6/12. Homes assembled on site from factory built components are permitted on the Timber Bay Lots.

Finishes of structures erected on the Timber Bay Lots shall be of colors that are in harmony with the colors of the natural surrounding, such as those commonly referred to as "earth tones."

All homes, cabins, or other dwellings erected on the Timber Bay Lots, whether permanent, seasonal or recreational shall be at least 1,200 square feet of living area. Two-story dwellings must have a minimum of 1,800 square feet of living area. Accessory buildings, including but not limited to garages and storage facilities, shall not be constructed prior to the primary residence and exteriors shall be finished with the same colors and materials as the primary residence.

#### **ARTICLE IV**

##### **GARBAGE AND REFUSE DISPOSAL**

The Subject Property shall not be used or maintained as a dumping ground for rubbish, trash, or garbage, nor shall any waste be kept on the Subject Property, except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition and shall comply with all local, state, and/or other regulations.

459226

## ARTICLE V

### BUILDING LOCATION

All buildings shall be located on their respective Lots in accordance with the applicable state, county, or township regulations, ordinances or laws which shall supersede any provisions contained herein. In addition, no building or other structure permitted under the terms of this agreement shall be located any closer than (i) 30 feet from any public road, (ii) 15 feet from the side yard boundary of any Timber Bay Lot, or (iii) 10 feet from any accessory buildings. On the Timber Bay Lots that abut the Shoreline Commons Area, all structures must be a minimum of 10 feet from the Shoreline Commons Area (rear yard setback).

## ARTICLE VI

### TIMBER REMOVAL

Cutting of the Subject Property will not be allowed unless done pursuant to a timber management plan or for the purpose of clearing a building site, lawn and garden area or driveway. All stumps that are removed shall be buried, burned or otherwise removed from the Subject Property. Selective harvesting of trees for personal use as firewood will be allowed. This does not apply to the Shoreline Commons Area owned by the Wisconsin River Power Company.

## ARTICLE VII

### TIMBER BAY WATERFRONT

#### COMMUNITY ASSOCIATION, LTD.

1. Membership and voting rights in the Association shall be determined by this Amended and Restated Declaration, the duly enacted Articles of Incorporation and By-laws of the Association, as well as by valid rules adopted by the Board of Directors of the Association,

all as modified from time to time. Each and every person or entity so qualified for membership and voting shall be known for purposes of this Amended and Restated Declaration as a "Member."

2. The Association shall own the Amenities, the Shoreline Commons Area, the Timber Bay Outlots, Strongs Prairie East, and Strongs Prairie West, doing so according to the terms, covenants, and conditions of this Amended and Restated Declaration and of the Articles of Incorporation and the Bylaws of the Association.

3. Outlots 1, 3, and 4, the easterly 50 feet of Strongs Prairie East, the Amenities, and the Shoreline Commons Area (together with all Easement Areas, the "Common Area") shall be held by the Association for the common use and enjoyment of the owners of the Timber Bay Lots. Outlot 1 shall be used by the members of the Association for parking and Outlot 3 and the easterly 50 feet of Strongs Prairie East shall be used by the members of the Association to access the Shoreline Commons Area.

4. Strongs Prairie West ("**Parcel 2 Limited Common Area**") shall be held by the Association for the limited use and the enjoyment of the owners of Parcel 2.

5. Strongs Prairie East, except the easterly 50 feet thereof ("**Parcel 3 Limited Common Area**"), shall be held by the Association for limited use and the enjoyment of the owners of Parcel 3.

6. The Association shall have the rights and duties to fix, levy, collect and enforce annual assessments against each of the Timber Bay Lots, as follows:

- A. The Association shall have the power to prepare annual budgets of (i) the expenditures which it proposes to make for the ensuing year with respect to the Common Area (the "**Common Area Budget**"), (ii) the expenditures which it proposes to make for the ensuing year with respect to the Parcel 2 Limited Common Area (the "**Parcel 2 Limited Common Area Budget**"),

and (iii) the expenditures which it proposes to make for the ensuing year with respect to the Parcel 3 Limited Common Area (the "**Parcel 3 Limited Common Area Budget**"). The Common Area Budget shall be submitted annually to all of the Association's Members. The Parcel 2 Limited Common Area Budget shall be submitted annually to the Members who own any part of Parcel 2. The Parcel 3 Limited Common Area Budget shall be submitted annually to the Members who own any part of Parcel 3. Such budgets shall include all necessary office, maintenance, repair, insurance, legal, salary, administrative, and other expenses (ordinary as well as capital) of every kind of the Association (including, without limitation, the expenses of maintaining the aforesaid four piers, said wooden stairway, said two day use piers, said parking area, paths created through the Easement Areas, the Timber Bay Outlots or the Shoreline Commons Area as well as compensation, if any, to officers, fees paid for auditing the books of the Association, and for necessary legal services and counsel fees to the Board of Directors, for all licenses, taxes and any other governmental charges incurred or imposed against the property of the Association).

- B. Upon the adoption and approval of the annual Common Area Budget by a majority of the votes cast by Members entitled to vote at a regular meeting of the Association or adjournment thereof, or upon the approval of a special assessment under paragraph F, the Board of Directors of the Association may levy an assessment against each Timber Bay Lot for costs relating to the Common Area Budget ("**Common Area Assessment**").
- C. Upon (i) the adoption and approval of the annual Parcel 2 Limited Common Area Budget by a majority of the votes cast at a regular meeting of the Association (or adjournment thereof) by Members who own any part of Parcel 2, or (i) the approval of a special assessment under paragraph F, the Board of Directors of the Association may levy an assessment against each Timber Bay Lot within Parcel 2 for costs relating to the Parcel 2 Limited Common Area Budget ("**Parcel 2 Limited Common Area Assessment**").
- D. Upon (i) the adoption and approval of the annual Parcel 3 Limited Common Area Budget by a majority of the votes cast at a regular meeting of the Association (or adjournment thereof) by Members who own any part of Parcel 3, or (i) the approval of a special assessment under paragraph F, the Board of Directors of the Association may levy an assessment against each Timber Bay Lot within Parcel 3 for costs relating to the Parcel 3 Limited Common Area Budget ("**Parcel 2 Limited Common Area Assessment**").

459226

- E. The assessments levied under this section shall be equal in amount against each Timber Bay Lot against which the respective assessment is levied and shall be levied at the same time each year upon all Timber Bay Lots. The Association shall at its first Annual Meeting set the assessment for the following year to cover the first year's estimated expenses.
- F. The Board of Directors of the Association may call a special meeting upon at least five (5) days written notice for the purpose of making special assessment. The nature of the proposed special assessment shall be included in the notice. As to a proposed special assessment relating to the Common Area: (i) a quorum shall require the presence of a majority of the votes entitled to be cast by all Members; and (ii) the adoption and approval of such special assessment shall require that a majority of such votes be cast in favor of such adoption and approval. As to a proposed special assessment relating exclusively to the Parcel 2 Limited Common Area, (i) a quorum shall require the presence of a majority of the votes entitled to be cast by all Members who own any Lot within Parcel 2; and (ii) the adoption and approval of such special assessment shall require that a majority of the eligible votes so cast in favor of such adoption and approval. As to a proposed special assessment relating exclusively to the Parcel 3 Limited Common Area, (i) a quorum shall require the presence of a majority of the votes entitled to be cast by all Members who own any Lot within Parcel 3; and (ii) the adoption and approval of such special assessment shall require that a majority of the eligible votes so cast in favor of such adoption and approval.
- G. The Board of Directors of the Association shall declare the assessments levied under paragraphs B, C, and/or D due and payable at any time after 30 days from the date of the levy. The Association's Secretary or other officer shall notify the owner of every Timber Bay Lot so assessed of the action taken by the Board, the amount of the assessment of each Timber Bay Lot owned by such owner and the date on which the assessment becomes due and payable. The secretary shall mail the notice by U.S. mail, postage prepaid, to the owner at the owner's last-known post-office address.
- H. In the event that an assessment levied under paragraphs B, C and/or D against any Timber Bay Lot remains unpaid for a period of sixty (60) days from the date of the levy, the Board of Directors of the Association may, in its discretion, file a claim for a maintenance lien against the Lot. All of the following apply to a claim for lien under this subsection:
  - i. The claim may be filed at any time within six (6) months from the date of the levy.
  - ii. The claim shall be filed in the office of the clerk of circuit court of the county in which the lands affected by the levy lie.

**459226**

- iii. The claim shall contain a reference to the resolution authorizing the levy and the date of the resolution, the name of the claimant or assignee, the name of the person against whom the assessment is levied, a description of the property affected by the levy and a statement of the amount claimed.
- iv. The claim shall be signed by the claimant or the claimant's attorney, need not be verified, and may be amended, in case an action is brought, by court order, as pleadings may be.
- v. The clerk of circuit court shall enter each claim for a maintenance lien in the judgment and lien docket immediately after the claim is filed in the same manner that other liens are entered. The date of levy of assessment will appear on the judgment and lien docket instead of the last date of performance of labor or furnishing materials.
- vi. When the Association has so filed its claim for lien upon a lot it may foreclose the same by action in the circuit court having jurisdiction thereof, and ss. 779.09, 779.10, 779.11, 779.12 and 779.13 Wis. Statutes shall apply to proceedings undertaken for the enforcement and collection of maintenance liens as described in this subsection.

7. All members of the Association shall have the following rights:

A. The Right to Use Shoreline Property.

- 1. As of the date of execution of this Agreement, the Shoreline Property (previously described as "Shoreline Commons Area" and "project land" and as shown on Exhibit A) is owned by Wisconsin River Power Company and lies within the boundary of a hydroelectric project known as Federal Energy Regulatory Commission ("FERC") Project 1984. The land is subject to regulation by FERC in accordance with the terms and conditions of a license issued by FERC.
- 2. The License Agreement grants the Association and its members and invitees the right to construct certain boat docks and stairs on project land and to use the Shoreline Property for recreational activities, such as walking, swimming, boating, bank fishing, and other pedestrian activities. FERC requires that the Shoreline Property also be open to the public for pedestrian ingress and egress. The Association has the right to construct four 10 slip piers, two single slip piers and one (1) wooden stairway to access said piers on the previously identified project land; its members have the exclusive right to use the piers, and wooden stairway. Declarant

**459226**

and the Association may install signs at each pier designating them as "Permitted Piers," and "Private Property for the exclusive use of Association Members." These rights shall be subject to the terms and conditions of said License Agreement.

**B. Docks, Stairways, Watercraft and Storage.**

1. Maintenance / Construction. All common piers and wooden stairways to access said piers shall be owned and maintained by the Association. The actual frontage area for each pier must be leased annually from the Wisconsin River Power Company. Declarant will execute the 2006/2007 Non-exclusive License Agreement. Declarant will assign said Agreement to the Association which will be responsible for the said Agreement and the payment of all annual fees.
2. Placement/assignments. Placement of the four (4) piers on the Shoreline Commons Area shall generally be located between Lots six (6) and Ten (10). Placement of the one (1) wooden stairway to access said piers shall be located on Outlot 2. Placement of the two (2) day use piers shall be generally located between lots 10 and 15. Lot assignments for piers are identified on Exhibit "C" and are as follows: Pier One is assigned Lots 1, 2, 3, 4, 5, 6, 7, 29, 30 and 44. Pier Two is assigned Lots 8, 9, 31, 32, 33, 34, 35, 41, 42 and 43. Pier Three is assigned Lots 20, 21, 22, 27, 28, 36, 37, 38, 39 and 40. Pier Four is assigned Lots 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19.
3. Off-Season Storage. Pier components and boat lifts may be stored on the Shoreline Commons Area during the off-season months at a location approved by Wisconsin River Power Company.
4. Lighting Fixtures. One dusk-to-dawn light fixture may be installed at each pier. Dusk-to-dawn fixtures shall be standard dusk-to-dawn outdoor lights, mounted on wooden poles with natural finishes, and extending not more than 15 feet above ground level. All wiring leading to permitted light fixtures shall be buried, in accordance with applicable electrical codes and regulations.

8. The Association shall maintain such policies of insurance, and in such amounts, as its Board of Directors may from time to time determine, doing so to the extent reasonably available and applicable, though in no case less than the following:

A) Public Liability Insurance

Commercial General Liability insurance covering events occurring anywhere on, or arising out of, or in connection with, the use, ownership, or maintenance of the Amenities, Common Area, or Limited Common Areas.

Coverage shall be in amounts not less than \$2,000,000 per occurrence and \$3,000,000 annual aggregate for Bodily Injury and Property Damage combined. Coverage may be purchased in any combination of primary liability and umbrella liability policies which, in the aggregate, total the required limits of coverage.

B) Directors' and Officers' Liability

Coverage commonly referred to as Condominium Directors' and Officers' Liability shall be purchased for the protection and benefit of each member of the Board of Directors and all officers in an amount of not less than \$1,000,000.

C) Property Insurance

At the determination of its Board of Directors, the Association may choose to insure any or all physical property owned by the Association, including the Amenities.

D) Workers' Compensation

If the Association shall have any employee(s), it shall purchase Employers Liability and statutorily required Workers' Compensation coverages in amounts sufficient to comply with applicable Wisconsin laws and regulations.

E) Fidelity Insurance

At the determination of its Board of Directors, the Association may choose to purchase a blanket fidelity bond covering the Association's Treasurer and such other Members who may handle Association funds or who may be responsible for overseeing the handling of the Association funds by third parties. The coverage amount should exceed a reasonable estimate of the aggregate funds, including any reserve fund, held at any given time during the policy year.

After notice and the opportunity for hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss resulted from the act or negligence of a Member. Upon said determination by the Association, any said loss or portion thereof may be assessed to the Member in question and the Association may collect the amount from said Member in the same manner as any annual assessment.

All policies maintained by the Association shall list the Association as the insured, and each Member shall be included as an insured but only with respect to liability as a Member of the Association. Policies may name a trustee or an attorney-in-fact to act on behalf of the Association with regard to insurance and related matters. Policies should require not less than 30 days notice of cancellation or intent to non-renew sent to the first named insured, trustee, or attorney-in-fact.

Insurance premiums for any coverage purchased by the Association shall be included in the Common Area Budget (or, in whole or in part, as reasonably determined by the Board of the Directors of the Association, in the Parcel 2 Limited Common Area Budget and/or the Parcel 3 Limited Common Area Budget), and thus shall be assessed and paid, as required hereunder, as part of the Common Area Assessment (or, if and to the extent applicable, the Parcel 2 Limited Common Area Assessment and/or the Parcel 3 Limited Common Area Assessment).

9. Each Member shall purchase and maintain personal liability insurance covering events occurring on or arising out of the use, ownership, or maintenance of every Lot owned by such Member, as well as for events that occur on the Common Area or the Limited Common Area and arise out of such Member's own activities. Such coverage shall be in amounts not less than \$300,000 per occurrence for bodily injury, property damage, and watercraft liability (if applicable) combined. From time to time the Association may require members to provide proof of in force coverage. Failure to request proof of coverage shall not, however, relieve any Member of the obligation to purchase and maintain the requisite coverage in the minimum required amounts.

## ARTICLE VIII

### TERM AND RIGHT TO ABATE VIOLATIONS

The provisions contained herein shall run with and bind the Subject Property and shall inure to the benefit of and be enforceable by or against any owner of land included in the Subject Property, their respective legal representatives, heirs, successors, and assigns and shall remain in full force and effect until and unless there shall be recorded in the public land records for Adams

County, Wisconsin a written instrument (i) that is signed by such person(s) who shall own, on the effective date of such written instrument, two-thirds of the Timber Bay Lots and (ii) that modifies such provisions in whole or in part. Public access to Outlot 2 is not subject to change.

If any Member or persons in possession of any said lots shall violate or attempt to violate any of the covenants, conditions, and restrictions herein contained, it shall be lawful for any other person or persons owning any real estate situated in the Subject Property to prosecute any proceedings at law or equity against the person or persons violating or attempting to violate any such covenants, either to prevent him or them from so doing or to recover damages from such violations. Failure by any person or entity so authorized to enforce any restrictions, conditions, covenants, or agreements herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior to subsequent thereto.

The invalidation of any one of these covenants by judgment of court order shall in no way effect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant, as record owner in fee simple absolute of not less than two-thirds of the Timber Bay Lots and not less than two-thirds of the Subject Property, does hereby cause this instrument to be executed in its name on the day and year first written above.

Naterra Land, Inc.

By: *Keith J. Rusch*  
Keith J. Rusch, Assistant Secretary

STATE OF WISCONSIN                    )  
  )ss  
PORTAGE COUNTY                    )

Personally came before me this 28th day of September 2006, the above-named, Keith J. Rusch, the Assistant Secretary of Naterra Land, Inc. to me known to be the person who executed the foregoing instrument and acknowledge the same.



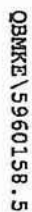
*Lori L. Kuklinski*  
Lori L. Kuklinski  
Notary Public, Portage County, Wisconsin  
My commission expires: 12-23-07

This instrument drafted by:  
Nancy L. Chadwick  
Naterra Land, Inc.  
43 Main Street S.E.  
Minneapolis, MN 55414  
612.331.6929

WYTW 20070919 10:00:00 AM 20070919 10:00:00 AM

[illegible]

459226

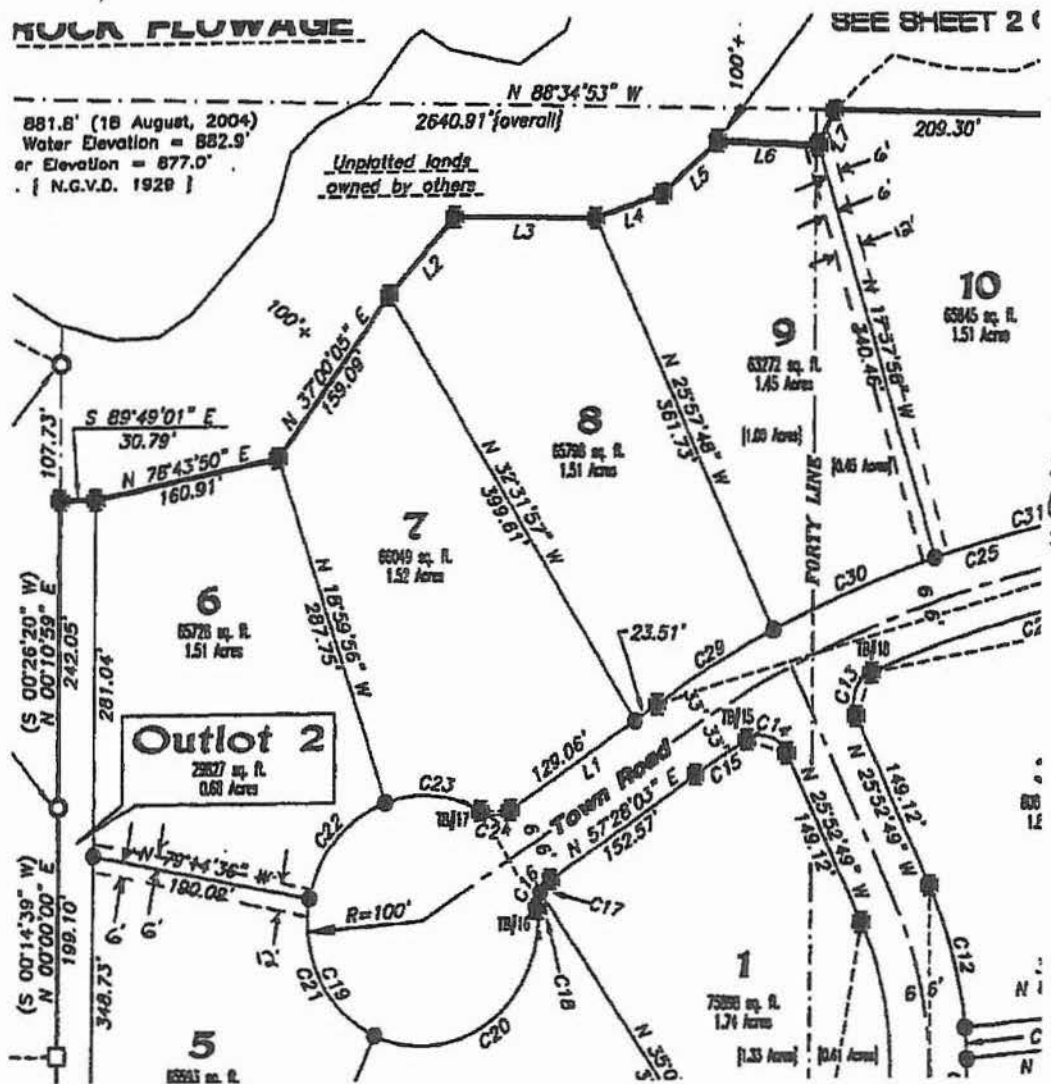


[illegible]

**EXHIBIT "A"**

[illegible]

12' Pedestrian Easement along lot lines 9/10 and 5/6 for Ingress and Egress to Shoreline Commons Area for Lots One through 44 of Timber Bay.



23

