



Swiss Alpine Association
10000 Alpine Drive
Reed City, MI 49677

E-Mail: SAA@SwissAlpine.org
Website: www.SwissAlpine.org

SWISS ALPINE NO. 2

WITNESSETH:

WHEREAS, Developer is the owner of real property described in Article II of this Declaration together with other contiguous properties and desires to create thereon a residential community with permanent parks, playgrounds, open spaces, and other common facilities for the benefit of said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces, and other common facilities; and to this end, desires to subject the real property described in Article II together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges, and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and WHEREAS, Developer has incorporated under the laws of the State of Michigan, a non-profit Corporation, SWISS ALPINE ASSOCIATION, for the purpose of exercising the functions aforesaid:

NOW, THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.



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Article I. DEFINITIONS

Section 1 The following words when used in this Declaration or any Supplemental Declaration unless the context shall prohibit, shall have the following meanings:

- (a) "Association" shall mean and refer to SWISS ALPINE ASSOCIATION.
- (b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.
- (c) "Common Properties" shall mean and refer to those areas designated by the Developer, Lot 133. These lots are intended to be devoted to the common use and enjoyment of the owners of The Properties.
- (d) "Original Lot" with the exception of lots in Article I, Section I, Paragraph (c), shall mean and refer to any lot or plat of land shown upon any original recorded and subdivision map of The Properties, after the same has been sold by the Developer, or its representatives or assigns, by the land contract or by deed but shall not include Common Properties as heretofore defined nor any lot that the Developer has re-acquired following the sale of same as a result of default by the purchaser and which the Developer or its assigns holds for the purpose of resale.
- (e) "Owner" shall mean and refer to the equitable owner whether one or more persons or entities holding any original lot situated upon the properties whether such ownership be in fee simple title or as land contract vendee, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee except if the mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (f) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section I hereof.

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Article II. PROPERTY SUBJECT TO THIS DECLARATION ADDITIONS THERETO

Section 1 Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied, subject to this Declaration, is located in the Townships of Cedar, County of Osceola, Michigan and is more particularly described as follows:

Plat of Swiss Alpine No. 2, Cedar Township, Osceola County, Michigan all of which real property is referred to (herein) as "Existing Property."

Section 2 Additional Lands may become subject to this Declaration.

- (a) The Developer, its successors and assigns, shall have the right to bring additional lands located in Swiss Alpine, Osceola County, Michigan, into the scheme of this Declaration. Such proposed addition, if made, shall become subject to assessment for their just share of Association expenses. The Common Properties within all such additions shall be devoted to the common use and enjoyment of all owners of properties which are subject to this Declaration including the Existing Property. The Developer's rights to bring additional lands into the Declaration shall not be held to bind the Developer, its successors and assigns, to make the proposed additions or to adhere to the scheme in any subsequent development of the land described therein. The additions authorized under this and the succeeding sub-sections shall be made by filing of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the Covenants and Restrictions of the Declaration to such property. Such Supplementary Declaration may contain such complimentary additions and modifications of the Covenants of 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 scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the Covenants established by this Declaration within the existing property.
- (b) Other Additions. Upon approval in writing of Association pursuant to a vote of its members as provided in its Articles of Incorporation, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file a record of Supplementary Declaration of Covenants and Restrictions, as described in sub-section (a) hereof.

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- (c) Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants established by this Declaration within the Existing Property except as hereinafter provided.

Article III. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1 Membership.

- (a) The ownership of each lot within the Properties shall constitute the owners thereof as members of the Association, provided that if more than one lot has common ownership such ownership shall constitute only a single member of the Association, and provided further that ownership shall mean legal ownership of the fee or equitable ownership as land contract vendee when the Developer or its successor or assigns have sold the same on land contract, and provided further that no such lot shall have more than one such ownership, and further, provided that no interest held as security only shall constitute ownership under this paragraph.
- (b) Persons not holding interest in any Lot in said Properties may become non-voting members of the Association under terms and conditions prescribed by the Board of Directors.

Section 2 Voting Rights. each lot shall be entitled to one vote but only one vote. A member shall be entitled to as many votes as the number of lots which he (and his common owners, if any) owns. Each lot shall have but one vote irrespective of the number of common owners thereof, which vote shall be cast as such common owners agree.

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Article IV. PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1 Members' Easements of Enjoyment. Subject to the provisions of Article IV in Section 3, every member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Original Lot.

Section 2 Title to Common Properties: the Developer shall retain legal title to the Common Properties but not longer than such time as it has sold 90% of the lots in The Properties including all additions thereto and the aggregate of the outstanding balances of the sales prices therefore has been reduced to 80% thereof, but not later than fifteen (15) years from the date of the recording of this document, convey to the Association such Common Properties with all improvements thereon which conveyance and transfer said Association shall accept in consideration of which transfer said Association shall pay to the Developer, for a period of ten (10) years after the date of such transfer, an annual payment equal to 20% of the gross assessments received by it under Article V, Section 3, above, during the fiscal year immediately preceding the date of transfer, which amount shall be paid ninety (90) days following the date of transfer, and an amount similarly determined for each succeeding year of the annual anniversary of such date of payment thereafter until ten (10) such payments have been made. The acceptance of such transfer and the liability to make payment in consideration thereof as above specified is consented to by all members of the Association by the acceptance of a land contract or deed subsequent to the date of the recording hereof.

Section 3 Extent of Members' Easements: The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Developer and of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. The members' rights and easements in the Common Properties shall be subordinate to any mortgage given by the Developer or Association as security for funds borrowed for said improvements. Any indebtedness which shall be created for the purpose of making improvements to the Common Properties shall be an obligation of the Association. In the event of a default upon such mortgage, the lender or mortgagee shall have all the rights afforded under the mortgage or security agreement and under the laws of the State of Michigan including the right after taking possession of The Properties, to charge admission and other fees as a condition to continued enjoyment of the members, and if necessary to open the

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enjoyment of such properties to a wider public. If the mortgage indebtedness is Satisfied and possession of The Properties returned to the Association, all rights of the members hereunder shall be restored; and

- (b) the right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure; and
- (c) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and
- (d) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties.

Article V. COVENANT FOR THE MAINTENANCE ASSESSMENTS

Section 1 **Creation of the Lien and Personal Obligation of Assessments** The Developer being the owner of all The Properties hereby covenants and each subsequent owner by acceptance of a land contract and/or deed therefore, whether or not it shall be expressed in any such deed or conveyance, be deemed to covenant and agree to pay to the Association; (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2 **Purpose of Assessments:** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and to the use and enjoyment of the Common Properties and improvements thereon and thereto, including but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

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Section 3 Basis and Amount of Annual Assessments: The annual assessments. The annual assessments shall be \$40.00 per each Original Lot sold by the Developer, its representatives or assigns, by Land Contract or Deed and the assessment shall be distributed evenly against each Original Lot, provided that in cases where an owner owns more than one lot in a single plat or subdivision shall bear an annual assessment of \$20.00. From all such assessments, the Association shall pay for the cost of maintenance of parks, and equipment and general upkeep of the Swiss Alpine Development area, management and operation thereof. In no event shall any assessment or charge be levied against or due from the Developer for any lots owned by it, or otherwise.

Section 4 Special Assessments for Capital Improvements; In addition to the annual assessments authorized by Section 3 hereof: The Association may levy in any assessment year on each Original Lot sold by the Developer, its representatives or assigns, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or re-construction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary and personal property related thereto, provided any such assessment shall have the affirmative of two thirds (2/3) of the votes of all voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5 Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period provided that any such change shall have the assent of two-thirds (2/3) of the vote of the members who are voting in person or by proxy at a meeting duly called for this purpose written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of the assessments undertaken as on incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2, hereof.

Section 6 Quorum of Any Action Authorized Under Section 4 and 5: The quorum required for any action authorized by Section 4 and 5 hereof shall be as follows:

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At the first meeting called, as provided in Section 4 and 5 hereof, the presence at the meeting of Members or of proxies, entitled to cast sixty (60) percent of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement as set forth in Section 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7 Date of Commencement of Annual Assessment: The Annual assessments provided for herein shall commence on the first day of April, 1971. The assessment for each succeeding year shall become due and payable on the first day of April each year. No adjustments or prorations of assessments shall be made by the Association. For purposes of levying the assessment, assessments shall be considered as paid in advance and shall be levied against any Original Lot which is subject to this Declaration or Supplementary Declarations. The due date of any special assessment under Section 4 hereof shall be fixed in the Resolution authorizing such assessment.

Section 8 Duties of the Board of Directors: The Board of Directors of the Association shall prepare a roster of the properties and assessments thereto at least thirty (30) days in advance of such assessment due date. Such assessment roster shall be kept in the office of the association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every owner subject thereto. 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 of payment of any assessment therein stated to have been paid.

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Section 9 Effect of Non-Payment of Assessment: The Personal Obligation of the Owner. The Lien. Remedies of Association: If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof) then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereon become a continuing lien on the property which shall bind such property in the hands of the owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, a penalty fee not to exceed \$2.00 shall be added thereto and from that date interest at the rate of seven (7%) percent per annum may be added to the delinquent balance and penalty and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property. There shall be added to such assessment delinquent fee and interest and the cost of preparing and filing Complaint in such action and in the event that Judgment is obtained, such Judgment shall include interest on the total amount as above provided and reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 10 Subordination of the Lien to Mortgages; The line of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages 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 a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11 Exempt Property. The following property subject to this Declaration shall be exempted from the assessment, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties as defined in Article I hereof; (c) all properties exempted from taxation by the laws of the State of Michigan; upon the terms and to the extent of such legal exemption; (d) all properties owned by the Developer, its successors and assigns, and held by them or any of them for sale or re-sale.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempted from said assessments, charges or liens.

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Article VI. ARCHITECTURAL CONTROL COMMITTEE

Section 1 Review of Committee: No building, fence, wall, dock or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board or its designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with.

Article VII. BUILDING AND USE LIMITATIONS

Section 1 All lots shall be used for residential purposes only, and no business, commercial or manufacturing enterprise shall be conducted on said premises. No building shall be erected, altered, placed or permitted to remain on any lot other than on single family dwelling not exceeding two and one-half stories in height, and one private garage or boathouse, or combination garage and boathouse for family automobiles and boats:

Section 2 No camper trailer or similar type structure, basement, tent, shack, garage, barn or other out-building shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character or any building in the process or construction be used as a residence.

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in a sanitary container. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

All buildings shall be constructed of new material.

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All outside fuel tanks and holders shall be kept straight, level and in a painted condition.

The outside finishing of all buildings must be completed within one (1) year after construction has started, and no asphalt shingles, imitation brick, building paper, insulation board or sheathing or similar non-exterior materials shall be used for the exterior finish of any such building; exterior finish shall be wood or asbestos shingles or aluminum siding, logs, brick, stone or painted concrete.

Every dwelling shall have not less than 720 square feet of ground floor enclosed living space exclusive of porches, breezeways, carports, patios, pool areas, garages and other accessory uses.

Section 3 Building Location. No building shall be located on any property nearer than 125 feet to the water front property line or nearer than 25 feet to any front or side street line. No building shall be located nearer than 10 feet to any side lot line, except that a 3 foot minimum side yard shall be permitted for a garage or other permitted accessory building which is located towards the rear of the property. For the purpose of this Covenant, eaves, steps and open porches shall not be considered as a part of the building to encroach upon the adjoining property.

Section 4 Underground and above-ground easements are reserved along and within five feet of the rear line and sideline of all original lots in the subdivision for the construction and perpetual maintenance of conduits, poles, wires and fixtures for electric lights, telephone and other public and quasi-public utilities and drainage and to trim any trees which at any time may interfere or threaten to interfere with the maintenance of such lines with right of ingress to and egress from and across said premises to employees of said utilities. Said easements to also extend along any owner's side and rear property lines in cases of fractional lots. The person owning more than one lot may build on such lot line and the easement shall be inoperative as to said line provided that such building shall be placed thereon prior to the instigation of use of this easement for one of the foregoing purposes.

It shall not be considered a violation of the provision of easement if wires or cables carried by such pole lines pass over some portion of said properties not within the five foot wide easement as land as such lines do not hinder the construction of buildings on the property.

Each residence shall be provided with and maintain only inside toilets with septic tanks and drain fields or dry well installation meeting the minimum regulations of the Central Michigan District Board of Health (Osceola County).

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The following Building and Use Limitations shall not apply to the Common Properties, with the exception of Deed Restrictions.

Section 5 Signs. No "For Sale" sign or advertising device of any kind shall be erected on any lot except on a new home, previously unoccupied, which is offered by the Developer or Builder.

Section 6 Trees. No trees shall be cut except for those necessary for the construction and maintenance of any building or those trees which may constitute a danger or hazard to any person or building.

Section 7 Boats and Motors: No fuel propelled, motors shall be permitted on Swiss or Alpine Lakes.

Any owner of real property in said Plat shall have the right to prosecute any proceedings at law or in equity against any person or persons violating or attempting to violate any covenant contained herein, either to prevent him or them from doing so or to recover damages to other dues for such violations.

Section 8 Mobile Homes. All mobile homes shall comply with all Articles contained herein and added provisions listed below:

- (1) Mobile homes shall be permitted on lots 219 up to and including 272 only.
- (2) Only one (1) mobile home shall be permitted per lot. All mobile homes and shall be no less than 12 by 60 feet in size.
- (3) All mobile homes will be enclosed at the base with a skirt, consisting of painted metal, masonry, plastic or fiberglass type materials, effectively enclosed on all four sides. All mobile homes must have a concrete slab or runners beneath the full length of the unit. No straw, rolled felt, tape, tar paper or material of this nature or type will be permitted on any mobile home.
- (4) The Developer and the Architectural Control Committee retains the responsibility and discretion in placement of all mobile homes on individual lots to take advantage of the land, trees and the aesthetic value of the total development.

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- (5) No mobile home may be placed on any lot on a temporary basis. Occupancy of any mobile home is not permitted unless sewer and water lines are installed, in conformance with Article VII, Section 8 hereof, and all mobile homes, prior to their placement within the development must be approved by the Architectural Control committee and/or the Developer.

Any owner of real property in said Plat shall have the right to prosecute any proceedings at law or in equity against any person or persons violating or attempting to violate any covenant contained herein, either to prevent him or them from doing so or to recover damages or other dues for such violations.

Article VIII. GENERAL PROVISIONS

Section 1 Duration. The covenants and restrictions of this Declaration shall run with and bind on the land and shall inure to the benefit of and be enforceable by the Association, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty years from the date of this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds of the lots, subject to this Declaration, including all lots if any still owned by the Developer or its successors or assigns, has been recorded, agreeing to change said covenants and restrictions in whole or in part, except Section 4 or Article 7 which shall be in perpetuity. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

Section 2 Notices. Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing.

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Section 3 Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

The following restrictions are deemed necessary by the Central Michigan District Health Departments, and shall be perpetual with the use of the land.

1. Before any construction on a lot, a sewage disposal permit must be obtained from the Central Michigan District Health Departments. The Health Department shall have final authority of location of septic systems and wells.
2. Lot 274 shall be combined with lot 273, and sold as 1 lot.
3. Lot 226 and 227 combined with lot 225, and sold as 1 lot.
4. Lot 228 shall be combined with lot 229, and sold as 1 lot.

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