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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS

This **AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS** is made this day of 28th September, 2022, by Ninilchik Natives Association, Inc., P.O. Box 39130, 15730 Sterling Hwy., Ninilchik, Alaska 99639, hereinafter referred to as "Declarant" the owner of all lots in the **Angler's Crest Subdivision TIKHATNU HEIGHTS** ("subdivision" of "Angler's Crest").

RECITALS

WHEREAS, on August 11, 2009, the Declarant, Ninilchik Natives Association, Inc. recorded a document titled Declaration of Covenants, Conditions, Restrictions (Document Number 2009-002932-0) imposing certain restrictions on the subdivision; and

WHEREAS, on May 31, 2011, the Declarant, Ninilchik Natives Association, Inc. recorded a document titled Amendment to Declaration and Establishment of Covenants, Conditions, Restrictions (Document Number 2011-001596-0) that amended the August 11, 2009 document; and

WHEREAS, the Declarant, Ninilchik Natives Association, Inc. has approved by resolution of its Board of Directors this amendment and restatement of the Declaration of Covenants, Condition, Restrictions applicable to the subdivision such that Document Number 2009-002932-0 and Document Number 2011-001596-0 are revoked and superseded by these Amended And Restated Declaration Of Covenants, Conditions, Restrictions; and

WHEREAS, Declarant hereby makes the following declarations as to limitations, restrictions and use to which the lots or tracts located in the following described subdivision may be put, and hereby specifies that the said declarations shall constitute covenants to run with all of the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations upon all future owners in said subdivision.

The land subject to these building and land use restrictions is described as follows:

Anglers Crest Subdivision Tikhatnu Heights Addition, Plat 2011-9, Homer Recording District, Third Judicial District, State of Alaska (Kenai Peninsula Borough)

No land other than the lots and blocks described above are subject to these Covenants, Conditions, and Restrictions.

NOW, THEREFORE, Declarant hereby declares that the subdivision is held and shall be held, conveyed, encumbered, leased, used, occupied, and improved subject to the following limitations, restrictions, conditions, and covenants, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement, and sale of the lands, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the subdivision and every part thereof. All the limitations, restrictions, conditions, and covenants shall run with the land and shall be

binding upon all parties having or acquiring any right, title, or interest in the subdivision or any part thereof, their heirs, successors, and assigns.

Any person by the acceptance of title to any lot in this subdivision shall thereby agree and covenant to abide by and fully perform the limitations, restrictions, conditions, and covenants set forth in this Declaration of Restrictive Covenants, Restrictions and' Conditions.

I. LAND USE AND BUILDING TYPE

The subdivision shall be occupied and used only as follows:

Each lot shall be used for single-family residential or recreational purposes. No buildings, other than a single-family, private dwelling, arranged for the occupancy of not more than one family, and other necessary outbuildings, shall be constructed or located on any lot. Outbuildings include, but are not limited to, storage sheds and garages.

No lot shall be re-platted except with the approval of the majority of the owners in the subdivision. Owners of three (3) contiguous lots, however, may divide the inner or middle lot thus increasing the size of the two remaining lots which shall then be treated for all purposes pertinent to these covenants as enlarged single lots.

Outbuildings including greenhouses, storage sheds, etc. shall be permitted only if constructed in a permanent manner. No outbuildings will be permitted which are not properly sided, painted and roofed, or in a quality substantially similar to dwellings in the subdivision.

II. DWELLINGS

(a) It is the intention and purpose of these restrictions to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than which can be produced on the date these restrictions are recorded. All dwellings shall contain a minimum of 1,000 square feet.

(b) The outside walls shall be finished in good taste (aesthetically compatible with the neighborhood) and the structure shall be built on a permanent foundation.

(c) No structure shall be permitted which is higher than two and one half stories.

(d) The owner of each structure located within the subdivision shall, at the owner's sole cost and expense, maintain and repair the structure, to keep it in a condition comparable to the condition at the time of its initial construction, normal wear and tear excepted.

III. BUILDING LOCATION - SETBACK REQUIREMENTS

(a) Buildings shall be located within the following set-back requirements: 25 feet from side/interior lot lines; 25 feet from bluff lines; 25 feet from front lot lines; and no nearer than 50 feet to any street right of way.

(b) For the purposes of these covenants, eaves, steps and open porches shall not be considered as a part of the building, providing, however, that this shall not be construed to permit any portion of a building to encroach upon another lot.

IV. TIME FOR CONSTRUCTION

Any and all improvements including landscaping erected within any lot in said subdivision shall be completed with reasonable diligence. Any dwelling and landscaping shall be completed within two (2) years of the date of excavation or other commencement of construction (other than driveways).

V. EASEMENTS AND DRAINAGE

Easements for installation and maintenance of utilities, drainage facilities, and natural vegetation screening are reserved as shown on the recorded plat. Within these easements, no structure, plants or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities or which may change the direction of flow of drainage channels in the easements. The easement area of each lot and improvements in it shall be maintained continuously by the owner of the lot, except for the improvements for which a public authority or utility company is responsible.

VI. NUISANCES, LEGAL COMPLIANCE, AND HAZARDOUS SUBSTANCES

No noxious, explosive, dangerous, or offensive activity shall be allowed upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

Lot owners must, at their own expense, comply with all laws, ordinances, regulations and administrative agency or court order relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water and air quality. No owner shall cause or permit any hazardous material to be brought upon, kept or used on the lot by the owner, its agents, or licenses. No owner shall cause or permit any underground storage tanks to be brought upon, kept or used on the lot by the owner, its agents, or licensees. In the event any discharge, leakage, spillage, emission or pollution of any type occurs upon or from a lot, the owner shall at his or her own expense, clean and restore the lot to the satisfaction of a majority of the owners of the subdivision or any governmental agency or court having jurisdiction of the matter; and shall hold harmless and indemnify NNAI against any claim or liability related to activities of the lot owner.

For purposes of the Declaration, the term "hazardous or toxic material" means any hazardous or toxic substances, material, or waste, including but not limited to, those substances, materials, and wastes listed or defined in the following: US DOT Hazardous Materials Table (49 CFR 172.101); the US EPA as hazardous substances (40 CFR Part 302); Comprehensive Environmental Response, Compensation and

Liability Act, 42 USC 9601 *et seq.* and its implementing regulations: the Solid Waste Disposal Act of 1984; 18 AAC 785.080 *et seq.*; the Toxic Substances Control Act, 15

USC 2601 *et seq.*; the Resource Conservation and Recovery Act, 42 SC 6901, *et seq.*; and a petroleum product or oil as defined in 33 USC 1321. For purposes of these Restrictive Covenants, the term "underground storage tank" is defined in AS 46.03.360 *et seq.*

VII. TEMPORARY STRUCTURES

No structure of a temporary character, basement, tent, shack, garage, trailer, mobile home, barns or other outbuilding shalt be used on any lot as a permanent residence. There shall be a presumption that any structure used to house people for greater than 14 days continuous, or 28 total days in a year, is a used as a permanent residence or dwelling in violation of these covenants. There shall be no commercial rental of space for the parking or storage of temporary structures, tents or vehicles may be undertaken.

VIII. UNSIGHTLY EQUIPMENT

(a) No junkyards, auto salvage, or related activities may be placed or maintained upon any lot.

(b) Unlicensed and non-functioning vehicles may not be stored upon any lot.

(c) No lot or any portion thereof shall be used or maintained as a dumping ground for rubbish, trash, garbage or junk. Waste shall be kept in sanitary containers which are sheltered and kept from public view.

IX. SIGNS

No signs of any kind shall be displayed within public view on any lot except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by an owner or a builder to advertise the property during construction and/or the sales period for marketing subdivision lots.

X. LIVESTOCK AND PETS

No livestock or poultry of any kind shall be raised, bred, or kept for commercial purposes. In any case, no lot shall have more than four (4) household pets (dogs and cats) over the age of three (3) months at any given time. All pets must be confined to owner's property (kennel, permanent fencing, leash, etc.), and kept under owner's strict control.

XI. OIL AND MINERAL OPERATIONS

No commercial natural resource development, oil drilling, oil development operations, oil refining, quarry, or mining operations of any kind shall be permitted upon or in any lot nor shall oil wells, tanks, or mineral excavations be permitted upon or in any lot.

No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon or in any lot. However, subterranean drilling is acceptable provided no portion is visible from the surface.

XII. WATER SUPPLY

No individual water supply system shall be permitted on any lot unless such system is located, constructed, and equipped in accordance with the requirements, standards and recommendations of the Alaska Department of Environmental Conservation.

Approval of such systems as installed shall be obtained from such authority. All water supply systems must conform to the State of Alaska and Kenai Borough standards.

XIII. SEWAGE DISPOSAL

All on site, sewage disposal systems shall conform to the State of Alaska Department of Environmental Conservation standards and shall be located in conformance with State of Alaska regulations.

XIV. SANITARY FACILITIES

All dwellings shall have indoor sanitary facilities and underground disposal systems. No outhouse or above ground disposal systems (other than a self-contained port-a-potty) shall be permitted on any lot, except during the construction period.

XV. UTILITIES

No owner shall be permitted to clear all trees from a lot on which standing trees of size and beauty exists. A lot may be cleared as necessary for access and a building site, and trees may be cleared as necessary for access and a building site, and trees may be thinned so long as the maximum natural beauty and aesthetic value of trees is retained. No commercial timber harvesting shall be allowed. No gravel shall be removed for commercial purposes.

Notwithstanding the above, trees which die from natural causes may be removed.

Vegetation on the bluff face and upon the slope leading down to the edge line of the bluff shall be preserved and maintained in order to avoid erosion. Alder and brush may be thinned, provided that all reasonable steps are taken to insure that such trimming will not permit erosion. Reasonable steps shall include, but are not limited to the planting of native or other groundcover in the form of grasses, clover, shrubs or trees with adequate root systems to retain the soil. The owner of a bluff lot shall take all steps reasonably available and necessary to prevent any significant erosion of his or her lot(s), and to protect other bluff lots from the effects thereof.

XVI. TERM

These conditions, restrictions and covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these conditions, restrictions and covenants are recorded, after which time said covenants, conditions and restrictions shall automatically be extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants, conditions and restrictions in whole or part.

XVII. REMEDIES FOR VIOLATIONS

Failure to comply with any of these Covenants, Conditions, and Restrictions shall be grounds for any person(s) owning any lot to seek relief which may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure of a lien, or any combination thereof, which relief may be sought by any lot owner. The provisions of these Covenants, Conditions, and Restrictions shall be liberally construed to effectuate their purpose of creating a uniform plan for the orderly and safe development and operation of the subdivision.

XVIII. AMENDMENTS AND RESTRICTIONS

Declarant, its successors and assigns, for the purpose of further insuring the development of the real property which is the subject of these conditions, restrictions and covenants, as an area of high standards, reserves the right until the 31st day of December 2010, to make such further exceptions, amendments, and additions to these conditions, restrictions and covenants as the developers shall deem reasonably necessary and proper.

These Covenants, Conditions and Restrictions may be amended in either of the following ways: (a) by resolution of the Board of Directors of NNAI; or (b) by a petition signed by a majority of the lot owners.

No second deed of trust for the purpose of residential construction shall be recorded against any lot. Prior to construction of a permanent residential structure on any lot, the first deed of trust to NNAI must be paid off in full.

XIX. ASSIGNMENT OF RIGHTS AND POWERS

Any and all of the rights and powers and restrictions of Declarant herein contained may be deeded, conveyed, and/or assigned to any other corporation or association which is now organized, or which may hereafter be organized, and which will assume the duties of Declarant hereunder pertaining to the particular rights and powers and reservations assigned, and upon any such assignment and assume such duties, it shall to the extent of such deed, conveyance or assignment, have the same rights and powers and be subject to the same obligations and duties as are given to the Declarant herein. Thereafter, Declarant shall be relieved from the performance of any further duty and/or obligation arising hereunder.

XX. WAIVER

Any delay or omission on the part of Declarant or its successors or assigns or the owners of other lots and parcels in Angler's Crest in exercising any rights, powers, remedy or remedies provided by law or herein, in the event of any breach of the covenants, conditions and restrictions herein contained shall not be construed as a waiver thereof or acquiescence therein, and no right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Declarant for or on account of its failure to bring any action on account of the breach of these covenants, conditions and restrictions, or for imposing restrictions herein which may be unenforceable.

XXI. SEVERABILITY

Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

XXII. NOTICE

Any notice required to be sent under the provisions of the Covenants, Conditions, and Restrictions shall be deemed to have been properly sent when mailed, postage prepaid.

NINILCHIK NATIVES ASSOCIATION, INC.

DATE: Sept 26, 2022

By: _____
Richard Greg Encelewski
Title: President

STATE OF ALASKA

ss.

THIRD JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this 26th day of September, 2022, before me the undersigned Notary Public in and for the State of Alaska, personally appeared Richard Greg Encelewski known to me to be the person named in the foregoing instrument, and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein contained.

IN WITNESS HEREOF, I have hereunto set my hand and seal the day and year first hereinabove written.

STATE OF ALASKA
NOTARY PUBLIC
Emily E. Berg
My Commission Expires Aug 28, 2025

_____
Notary Public, State of Alaska
My Commission Expires: 8/28/2025

After Recording Return to:

Ninilchik Natives Association, Inc.
Post Office Box 39130
Ninilchik, Alaska 99639