

BOOK 108 PAGE 488
Palmer Recording District

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration made this 2nd day of December, 1975, by Settlers Bay Development Company, here after referred to as "Declarant".

W I T N E S S E T H

WHEREAS, Declarant is the owner of certain property in the Palmer Recording District, Third Judicial District, State of Alaska, more particularly described as

Lots 1-35 of Block One, Unit One and Lots 3-26 of Block Two, Unit One and Lots 5-20 and Lots 29-39 of Block Three, Unit One and Lots 1-5 of Block Four, Unit One and Block Six, Block Seven, Block Eight, Block Nine and Lots 1-26 and Lots 32-51 of Block Eleven, and Lots 1-18 of Block Twelve and Blocks 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22, and Lots 1-31 of Block Twenty-three, and Block Twenty-four, Block Twenty-five and Block Twenty-six, all in Unit One, and Lots 1 and 2 and Lots 27-47 of Block Three, Unit One and Lots 1-4 and Lots 21-28 of Block Three, Unit One and Lots 6-17 of Block Four, Unit One, Settlers Bay Village, according to Plat No 7559 thereof filed in the Office of the Recorder, Palmer Recording District, Third Judicial District, State of Alaska *and Plat #75-61*

WHEREAS, Declarant desires to subject such property to certain covenants, conditions and restrictions for the benefit of such property and its present and subsequent owners as hereinafter specified

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on, and inure to the benefit of all parties having any right, title, or interest in the described property or any part thereof, including their legal representatives, heirs, successors and assigns.

ARTICLE I

DEFINITIONS

File; Filed. The term "File" or "filed" shall mean, with respect to the subdivision map, that said subdivision map shall have been filed in the Office of the Recorder of the Matanuska-Susitna Borough, State of Alaska

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Grantor. The term "Grantor" shall mean Settlers Bay Development Company, its successors and assigns.

Improvements. The term "Improvements" shall include buildings, driveways, parking areas, fences, retaining walls, decks, hedges, poles, signs, and any structures of any type or kind.

Lot. The term "Lot" shall mean any lot designated on a subdivision map.

Notice. The term "Notice" shall mean a notice delivered pursuant to Article IV

Owner The term "Owner" shall mean the person or persons holding the beneficial ownership of a lot; provided, however, that

(a) For the purpose of the limitations and restrictions set forth in Article III, "Owner" shall not include grantor with respect to any lots held by grantor.

Record, Recorded The term "Record" or "Recorded" shall mean, with respect to any document, that said document shall have been recorded in the Office of the Recorder, Matanuska-Sustina Borough, State of Alaska

Recreational Facility. The term "Recreational Facility" shall mean any improvement used for or in connection with any recreational purpose

Residence. The term "Residence" shall mean the building or buildings, including any garage, carport, or similar outbuilding, used for residential purpose.

The Settlers Bay Restrictions.
The term "The Settlers Bay Restrictions" shall mean, with respect to all property within Settlers Bay, the limitations, restrictions, covenants, and conditions set forth in this declaration, and as such declaration may from time to time be amended.

ARTICLE 11

General Provisions

- Section 2.01. All restrictive covenants listed and/or contained herein are subject in all instances to compliance with State of Alaska and Matanuska-Susitna Borough Health ordinances, and pertinent restrictions
- Section 2.02 These restrictive covenants, easements, reservations and requirements upon the lands within said subdivision and any amendments thereto shall run with the land and remain in full force and effect for a period of Twenty (20) years from date of recording hereof, after which time they shall be automatically extended for successive periods of Ten (10) years.
- Section 2.03 Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, whether to restrain such violation(s) or to recover damages
- Section 2.04 These covenants and restrictions are severable and the invalidation of one shall not invalidate any other covenant hereof and each covenant shall be independent to such extent.
- Section 2.05 Grantor reserves the right to subsequently file restrictions of record designating the use classification of each lot or tract of land in said subdivision, or any unit thereof.
- Section 2.06 The grantor, its successors, assignees or duly authorized agent or agents, by recorded instrument, reserve the right to subsequently amend, alter, or change these covenants and restrictions (and use restrictions) subsequently filed, from time to time, by filing an amendment thereto upon the public records of the Palmer Recording District, State of Alaska, provided, however, that no amendment shall be made which changes the use classification of any lot which has been sold without the prior written consent of the buyer of said lot
- Section 2.07 Whenever any act or approval is required of developer under these restrictions, the developer may designate an agent or committee to act on its behalf
- Section 2.08 Easements for installation and maintenance of utilities and drainage facilities are reserved as shown

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on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. Such easements and rights-of-way shall be confined to the rear ten (10) feet of every lot and five (5) feet along each side line of every lot, and the front five (5) feet of every lot.

ARTICLE III.

LAND CLASSIFICATION
USE AND RESTRICTIVE COVENANTS

Section 3 01 All land within Settlers Bay Village has been classified by permitted uses. The permitted uses and set-backs for each permitted use classification are herein provided

Section 3 02 Single Family Residential.

Lots 1-35 of Block One, Unit One and Lots 3-26 of Block Two, Unit One and Lots 5-20 and Lots 29-39 of Block Three, Unit One and Lots 1-5 of Block Four, Unit One and Block Six, Block Seven, Block Eight, Block Nine and Lots 1-26 and Lots 32-51 of Block Eleven, and Lots 1-18 of Block Twelve and Blocks 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and Lots 1-31 of Block Twenty-three, and Block Twenty-four and Block Twenty-five and Block Twenty-six, all in Unit Two, Settlers Bay Village. Lots of this classification shall be used for single family homes, including accessory buildings, subject, however, to all of the following limitations and restrictions

(a) No building shall be located on any lot nearer than 25 feet to the front lot line, or nearer than 20 feet to the rear lot line, or nearer than 10 feet to the side lot lines, except that corner lots shall have a building set-back of 15 feet from the street side lot line

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(b) An accessory building is defined as a detached subordinate building, the use of which is customarily incidental to that of the main buildings such as a private garage or garden tool storage shed

(c) No improvement, excavation or other work which in any way alters any private area from its natural or improved state as existing on the date such private area was first conveyed in fee by grantor to an owner shall be made or done except upon strict compliance with, and within the restrictions of, the provisions of Article IV

(d) The private area of each lot shall be used exclusively for single family residential purposes, (including its servants and transient guests) provided, however, that nothing in this paragraph (d) shall be deemed to prevent.

(1) Any artist, artisan or craftsman from pursuing his artistic calling if such artist, artisan or craftsman also uses such private area for residential purposes, is self-employed and has no employees working in such private area, and does not advertise or offer any product or work of art for sale to the public upon or from such private area

(2) The leasing of any lot from time to time by the owner thereof, subject, however, to all of the provisions of the Settlers Bay Village Restrictions.

(e) Each private area, and any and all improvements from time to time located thereon, shall be maintained by the owner thereof in good condition and repair.

(f) No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, a nuisance, or cause unreasonable embarrassment, disturbance or annoyance to other owners in the enjoyment of their lots. No repair or restoration of any motor vehicle, boat, trailer, aircraft or other vehicle shall be permitted on any portion of any lot except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility

(g) No domestic animals or fowl other than a reasonable number of generally recognized house or yard pets shall be maintained on any private area. None of the animals shall be permitted to run at large.

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(h) No sign or billboard, including but without limitation, commercial, political and similar signs shall be erected, posted, painted or displayed upon any private area, except

(1) Such signs as may be required by legal proceedings,

(2) Residential identification signs of a combined total face area of three (3) square feet or less for each residence,

(3) During the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors or subcontractors,

(4) Signs advertising the property for sale

(i) No house trailer, mobile home, permanent tent, or similar facility or structure shall be placed on any lot except to serve as a single family dwelling during the construction of a permanent home, and said house trailer, mobile home, permanent tent, or similar facility or structure is to be removed upon completion of the permanent dwelling. In no event shall said house trailer, mobile home, permanent tent, or similar facility or structure or succession of such structures remain on any lot for more than twelve (12) months.

(j) No accessory structures or buildings shall be constructed, placed or maintained upon any private area prior to the construction of the main structure of the residence, provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with, the construction of the main structure of the residence

(k) The owner shall not be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared to provide for construction, and trees may be thinned so long as the natural beauty and aesthetic value of the natural foliage is retained.

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(l) All garbage and trash shall be placed and kept in covered containers and shall not be permitted to remain upon any private area for any period of time in excess of that normally required for regular garbage disposal.

(m) There shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefor.

Section 3 03. General and Strip Commercial Business District

Lots 1, 2 and lots 27-47 of block two, unit one. Lots 1-4 and lots 21-28 of block three, unit one. Lots 6-17 of block four, unit one. Lots of this classification are intended specifically for those areas surrounding intersections where personal services, conveniences goods, and auto-related service facilities are desirable and appropriate land uses. Lots of this classification are subject to the following

(a) Any lot used or designated for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

(b) Buildings shall be set back a minimum of twenty-five (25) feet from front lot lines and twenty (20) feet from rear lot lines and a minimum of ten (10) feet from side lot lines, except that corner lots shall have building set-back of fifteen (15) feet from the street side lot line

(c) No house trailer, mobile home or similar facility or structure shall be placed on any lot except to serve as a retail display which would be required in the normal operation of an established business. In no event shall said house trailer, mobile home or similar facility or structure be used as a private residence.

ARTICLE IV

ARCHITECTURAL CONTROL

Section 4 01. Each single family residence to be constructed in block 6, lots 1-26 in block 7, block 16 and

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block 26 of unit two, Settlers Bay Village shall contain a minimum of 1400 square feet of living area. Each single family residence to be constructed in block 1, block 2, block 3, and block 4 of unit one and lots 27-69 in block 7, block 8 through block 15, and block 17 through block 25 of unit two Settlers Bay Village shall contain a minimum of 1000 square feet of living area. A garage either attached to or detached from the main structure of the residence is not to be construed as living area.

Section 4 02. No building, fence, wall 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 natural, kind, shape, height, materials, and locations 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 ARCHITECTURAL CONTROL COMMITTEE which is composed of three (3) or more representatives appointed by Settlers Bay Development Company. At any time, the then record owners of 75% of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. In the event said committee fails to approve or disapprove such design and location within twenty (20) days after said plans and specifications have been submitted to it, this article will be deemed to have been fully complied with

Section 4.03 No building shall be erected, placed or altered on any lot, part or portion of the property without the installation of a permanent foundation. All construction plans, specifications and dwellings will be required to meet standard FHA building codes. One set of plans as finally approved shall be retained and maintained by the ARCHITECTURAL CONTROL COMMITTEE as a permanent record.

Section 4.04 If within the twenty (20) day period referred to in Section 4 02 The members of the ARCHITECTURAL CONTROL COMMITTEE, in their sole discretion, unanimously find that the proposed work would, for any reason whatsoever be incompatible with Settlers Bay Village, then the committee shall

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not approve the plans, drawings and specifications submitted to it, and shall so notify the owner concerned in writing setting forth the reasons for such disapproval

- Section 4 05. The ARCHITECTURAL CONTROL COMMITTEE shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the ARCHITECTURAL CONTROL COMMITTEE unless the unanimous decision of its members is otherwise required by the Settlers Bay Village Restrictions.
- Section 4 06. The ARCHITECTURAL CONTROL COMMITTEE may, from time to time and in its sole discretion, adopt, amend and repeal by unanimous vote, rules and regulations, to be known as "ARCHITECTURAL CONTROL COMMITTEE RULES", which among other things, interpret or implement the provisions of sections 3.02 and 3 03. A copy of the ARCHITECTURAL CONTROL COMMITTEE RULES, as they may from time to time be adopted, amended, or repealed, certified by any member of the ARCHITECTURAL CONTROL COMMITTEE, shall be recorded and shall thereupon have the same force in and where a part of the Settlers Bay Village Restrictions.
- Section 4 07. Neither the ARCHITECTURAL CONTROL COMMITTEE nor any member thereof shall be liable to any owner or project committee for any damage, loss or prejudice suffered or claimed on account of (a) the approval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development, or manner of development of any property within Settlers Bay Village, provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

ARTICLE V

MISCELLANEOUS RESTRICTIONS

- Section 5 01. Noise control. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises in the neighborhood shall not be operated within the subdivision. The operation of motorcycles and or motorbikes except as transportation to and from a place of residence shall not be permitted. Snowmobiles on any paths, trails, or

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roads within the subdivision shall not be permitted except where designated and approved for such use.

- Section 5 02. Recreation trails. The perimeter of the subdivision is dedicated to the building and use of cross-country ski trails and hiking trails, and shall not be used for any other than recreational purpose.
- Section 5 03. Speed limit with Settlers Bay Village is 20 M.P.H. unless otherwise posted.
- Section 5.04. Fence restrictions. Fences or walls shall be of wood, brick, stone or other materials approved by the grantor (or the ARCHITECTURAL CONTROL COMMITTEE). Fences or walls or hedges shall not exceed six feet in height and shall not extend beyond the front yard set-back at any point. Fences, walls, or hedges on any corner lot at road intersections must be built in such a way that they will not constitute a traffic hazard.
- Section 5 05. Off street parking. Any person owning and maintaining boats, motor homes, travel trailers, etc., will provide adequate off-street parking for each vehicle within the set-back restrictions of each private area.
- Section 5 06. Lake. Motorized watercraft are not permitted upon any lake within the subdivision, provided, however, that this restriction shall not apply to float plane operation as may be approved by the proper authorities.

IN WITNESS WHEREOF, Settlers Bay Development Company has caused these presents to be signed by its duly authorized officer the day and year first above set forth.

SETTLERS BAY DEVELOPMENT COMPANY

By Mel W. Tipton
Mel W. Tipton, General Partner

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

THIS CERTIFIES that on this 2ND day of DECEMBER, 1975, before me, the undersigned Notary Public, personally appeared Mel W. Tipton known to me to be a general partner of Settlers Bay Development Company, and to me he acknowledged that he read the foregoing instrument, knew the contents therein, and executed the same freely and voluntarily for the uses and purposes therein mentioned on behalf of Settlers Bay Development Company

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WITNESS my hand and official seal on the day and year in
this instrument first above written.

[Signature]
Notary Public in and for Alaska
My Commission Expires 12/22/1975

75-010508

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WATANUSKA SUSITNA BOROUGH INC
BOX 3
PALMER ALASKA 99645

M.F.
701

AMENDED DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS

THIS DECLARATION, made this 13th day of MAY, 1981, by SETTLER'S BAY PROPERTIES, INC., an Alaskan Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the Palmer Recording District, Third Judicial District, State of Alaska, more particularly described as:

SETTLER'S BAY SUBDIVISION, Unit No. 1, according to the official plat thereof filed under Plat No. 75-61, records of the Palmer Recording District, Third Judicial District, State of Alaska.

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof, filed under Plat No. 77-17, records of the Palmer Recording District, Third Judicial District, State of Alaska.

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-18, records of the Palmer Recording District, Third Judicial District, State of Alaska.

and

WHEREAS, Declarant desires to subject such property to certain covenants, conditions, restrictions and charges for the benefit of such property and its present and subsequent owners as hereinafter specified; and,

WHEREAS, the power to enforce such covenants, conditions, restrictions, and charges is to reside in the Settler's Bay Owners Association, a nonprofit corporation organized under the laws of the State of Alaska; and

WHEREAS, Declarant in Section 2.06 of that Declaration of Covenants, Conditions and Restrictions executed the 2nd day of December, 1975, filed in Book 108, Page 482, Palmer Recording District, Third Judicial District, State of Alaska, did reserve the right to subsequently amend, alter, or change the covenants and restrictions set forth in that document;

WHEREAS, Declarant wishes to amend that Declaration of Covenants, Conditions, and Restrictions executed December 2, 1975, recorded in the Palmer Recording District in Book 108, Page 482, by this Amended Declaration of Covenants, Conditions, and Restrictions which shall prevail to the extent that it is inconsistent with the original covenants, conditions and restrictions.

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NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, and charges, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on, and inure to the benefit of, all parties having any right, title, or interest in the described property or any part thereof, including their legal representatives, heirs, successors, and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Settler's Bay Owners Association, its successors, and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, by the development of latter phases of the Settler's Bay Subdivision.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and other tracted land.

Section 6. "Declarant" shall mean and refer to Settler's Bay Properties, Inc., an Alaskan Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, and to promul-

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gate and enforce reasonable rules and regulations for the use of such facilities,

b. the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations,

c. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to regulations and assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Lot.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership.

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ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges, and (ii) special assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due. Such personal obligations shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment, and welfare of the owners of the Properties, and for the improvement and maintenance of property, services, and facilities devoted to such purposes.

Section 3. Maximum Annual Assessment. Until January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors shall be ONE HUNDRED FIFTY DOLLARS (\$150.00) per Lot.

a. From and after January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors without a vote of the membership shall be adjusted in relation to the Consumer Price Index for the City of Anchorage, Alaska, issued by the Bureau of Labor Statistics of the United States Department of Labor, herein referred to as "price index figure"; provided, however, that in no event shall the maximum annual assessment be reduced to an amount less than ONE HUNDRED FIFTY DOLLARS (\$150.00) per annum. The adjustment in the maximum annual assessment shall be determined as follows:

The price index figure for October, 1980, the price index figure for October of the year immediately preceding the year for which such adjustment is to be made, and the sum of ONE HUNDRED FIFTY DOLLARS (\$150.00) shall be the basis upon which such adjustment shall be computed. The difference, if any between the price index figure for October, 1980, and the price index figure for October of the year immediately preceding the year for which such adjustment is to be made shall be ascertained by subtracting the lesser from the greater of such figures. Thereafter, such difference shall be divided by the price index figure for October,

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1980, which will provide the percentage of change, if any, in the price index figure. If such percentage of change represents an increase, then the maximum annual assessment for the following assessment year shall be ONE HUNDRED FIFTY DOLLARS (\$150.00) plus the sum derived by multiplying the sum of ONE HUNDRED FIFTY DOLLARS (\$150.00) by such percentage of change.

In the event the Consumer Price Index issued by the United States Department of Labor be discontinued, or, if there is a substantial change in the method of determining the price index figure from the base month of October, 1980, any other appropriate and suitable governmental index shall be used provided it offers a comparison between a period reasonably close to October, 1980, and the subsequent month being measured.

b. From and after January 1, 1983, the maximum annual assessment may be increased above the amount otherwise allowable under (a.) above, to a stated maximum amount, applicable to that year only, by an affirmative vote of two-thirds (2/3) of each class of members who are voting on such resolution, in person or by proxy, at a meeting duly called for this purpose. This provision shall not apply to a pro rata assessment of the cost of road maintenance following the failure of a majority of the qualified residents of the subdivision to vote in favor of the establishment of a service area for that purpose in an election held by the Matanuska-Susitna Borough.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors may provide for the payment of such special assessment on a monthly basis.

Section 5. Notice and Quorum for Action Authorized Under Section 3. Written notice of any membership meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of both classes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all

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Lots, except that unimproved Lots owned by the Declarant may be assessed at a rate of not less than one-half (1/2) the normal rate.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the recording of this Amended Declaration of Covenants, Conditions and Restrictions. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall thereafter fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors which may also provide for the payment of such assessment on a monthly basis. The Association shall, upon demand, and for a reasonable charge, furnish to any Owner liable for an assessment a certificate signed by an officer of the Association setting forth whether the assessments on the property owned by such Owner have been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date as established by the Board of Directors shall bear interest from the due date at the rate of ten and one half percent (10.5%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot pursuant to a foreclosure, or other proceeding in lieu thereof, of any first mortgage or deed of trust, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, but not as to any assessments thereafter becoming due.

ARTICLE V

LAND CLASSIFICATION USE
AND RESTRICTIVE COVENANTS

Section 1. All land within Settler's Bay Village has been classified by permitted uses. The permitted uses and set-backs for each permitted use classification are therein provided.

Section 2. Single Family Residential. Lots One through Thirty-five (1-35) of Block One (1), Unit One (1) and Lots Three through Twenty-six (3-26) of Block Two (2), Unit One (1), and Lots Five through Twenty (5-20) and Lots Twenty-nine through Thirty-nine (29-39) of Block Three (3), Unit One (1) and Lots One through Five (1-5) of Block Four (4), Unit One (1) and

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Block Six (6), Block Seven (7), Block Eight (8), Block Nine (9), and Lots One through Twenty-six (1-26) and Lots Thirty-two through Fifty-one (32-51) of Block Eleven (11), and Lots One through Eighteen (1-18) of Block Twelve (12) and Blocks Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), and Lots One through Thirty-one (1-31) of Block Twenty-three (23), Block Twenty-three A (23 A), Block Twenty-four (24), Block Twenty-four A (24 A), Block Twenty-five (25), and Block Twenty-six (26), all in Unit Two (2), Settler's Bay Village. Lots of this classification shall be used for single family homes, including accessory buildings, subject, however, to all of the following limitations and restrictions:

a. No building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than twenty (20) feet to the rear lot line, or nearer than ten (10) feet to the side lot lines, except that corner lots shall have a building set-back of fifteen (15) feet from the street side lot line.

b. An accessory building is defined as a detached subordinate building, the use of which is customarily incidental to that of the main buildings such as private garage or garden tool storage shed.

c. No improvement, excavation, or other work which in any way alters any private area from its natural or improved state as existing on the date such private area was first conveyed in fee by grantor to an owner shall be made or done except upon strict compliance with, and within the restrictions of, the provisions of Article VI.

d. The private area of each lot shall be used exclusively for single family residential purposes, (including its servants and transient guests) provided, however, that nothing in this paragraph (d) shall be deemed to prevent:

(1) Any artist, artisan, or craftsman from pursuing his artistic calling if such artist, artisan, or craftsman also uses such private area for residential purposes, is self-employed, and has no employees working in such private area, and does not advertise or offer any product or work of art for sale to the public upon or from such private area.

(2) The leasing of any lot from time to time by the owner thereof, subject, however, to all of the provisions of the Settler's Bay Village Restrictions.

e. Each private area, and any and all improvements from time to time located thereon, shall be maintained by the owner thereof in good condition and repair.

f. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon

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which may be, or may become, a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to other owners in the enjoyment of their lots. No repair or restoration of any motor vehicle, boat, trailer, aircraft, or other vehicle shall be permitted on any portion of any lot except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility.

g. No domestic animals or fowl other than a reasonable number of generally recognized house or yard pets shall be maintained on any private area. None of the animals shall be permitted to run at large.

h. No sign or billboard, including but without limitation, commercial, political, and similar signs shall be erected, posted, painted, or displayed upon any private area, except:

- (1) Such signs as may be required by legal proceedings,
- (2) Residential identification signs of a combined total face area of three (3) square feet or less for each residence,
- (3) During the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors or subcontractors,
- (4) Signs advertising the property for sale.

i. No house trailer, mobile home, permanent tent, or similar facility or structure shall be placed on any lot except to serve as a single family dwelling during the construction of a permanent home, and said house trailer, mobile home, permanent tent, or similar facility or structure is to be removed upon completion of the permanent dwelling. In no event shall said house trailer, mobile home, permanent tent, or similar facility or structure or succession of such structures remain on any lot for more than twelve (12) months.

j. No accessory structures or buildings shall be constructed, placed or maintained upon any private area prior to the construction of the main structure of the residence; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with, the construction of the main structure of the residence.

k. The owner shall not be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared to provide for construction, and trees may be thinned so long as the natural beauty and aesthetic value of the natural foliage is retained.

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l. All garbage and trash shall be placed and kept in covered containers and shall not be permitted to remain upon any private area for any period of time in excess of that normally required for regular garbage disposal.

m. There shall be no exterior fires whatsoever except barbeque fires contained within receptacles therefor.

Section 3. General and Strip Commercial Business District. Lots One (1), Two (2), and Lots Twenty-seven through Forty-seven (27-47) of Block Two (2), Unit One (1). Lots One through Four (1-4) and Lots Twenty-one through Twenty-eight (21-28) of Block Three (3), Unit One (1). Lots Six through Seventeen (6-17) of Block Four (4), Unit One (1). Lots of this classification are intended specifically for those areas surrounding inter-sections where personal services, conveniences, goods, and auto-related service facilities are desirable and appropriate land uses. Lots of this classification are subject to the following:

a. Any lot used or designated for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare, or convenience.

b. Buildings shall be set back a minimum of twenty-five (25) feet from front lot lines and twenty (20) feet from rear lot lines and a minimum of ten (10) feet from side lot lines, except that corner lots shall have building set-back of fifteen (15) feet from the street side lot line.

c. No house trailer, mobile home, or similar facility or structure shall be placed on any lot except to serve as a retail display which would be required in the normal operation of an established business. In no event shall said house trailer, mobile home, or similar facility or structure be used as a private residence.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Each single family residence to be constructed in Block Six (6), Lots One through Twenty-six (1-26) in Block Seven (7), Block Sixteen (16) and Block Twenty-six (26) of Unit Two (2), Settler's Bay Village shall contain a minimum of 1,400 square feet of living area. Each single family residence to be constructed in Block One (1), Block Two (2), Block Three (3), and Block Four (4) of Unit One (1), and Lots Twenty-seven through Sixty-nine (27-69) in Block Seven (7), Block Eight through Fifteen (8-15), and Block Seventeen through Twenty-five (17-25) of Unit Two (2) Settler's Bay Village shall contain a minimum of 1,000 square feet of living area. A garage either

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attached to or detached from the main structure of the residence is not to be construed as living area.

Section 2. No building, fence, wall, 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 natural kind, shape, height, materials, and locations 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 ARCHITECTURAL CONTROL COMMITTEE which is composed of three (3) or more representatives appointed by Settler's Bay Properties, Inc. At any time, the then record owners of seventy-five percent (75%) of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. In the event said committee fails to approve or disapprove such design and location within twenty (20) days after said plans and specifications have been submitted to it, this article will be deemed to have been fully complied with.

Section 3. No building shall be erected, placed, or altered on any lot, part or portion of the property without the installation of a permanent foundation. All construction plans, specifications and dwellings will be required to meet standard FHA building codes. One set of plans as finally approved shall be retained and maintained by the ARCHITECTURAL CONTROL COMMITTEE as a permanent record.

Section 4. If within the twenty (20) day period referred to in Section 2, the members of the ARCHITECTURAL CONTROL COMMITTEE, in their sole discretion, unanimously find that the proposed work would, for any reason whatsoever be incompatible with Settler's Bay Village, then the committee shall not approve the plans, drawings, and specifications submitted to it, and shall so notify the owner concerned in writing setting forth the reasons for such disapproval.

Section 5. The ARCHITECTURAL CONTROL COMMITTEE shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the ARCHITECTURAL CONTROL COMMITTEE unless the unanimous decision of its members is otherwise required by the Settler's Bay Village Restrictions.

Section 6. The ARCHITECTURAL CONTROL COMMITTEE may, from time to time and in its sole discretion, adopt, amend, and repeal by unanimous vote, rules and regulations, to be known as "ARCHITECTURAL CONTROL COMMITTEE RULES", which among other things, interpret or implement the provisions of Article V, Sections Two (2) and Three (3). A copy of the ARCHITECTURAL CONTROL COMMITTEE RULES, as they may from time to time be adopted, amended, or repealed, certified by any member of the ARCHITECTURAL CONTROL COMMITTEE, shall be recorded and shall thereupon have the same force in and where a part of the Settler's Bay Village Restrictions.

Section 7. Neither the ARCHITECTURAL CONTROL COMMITTEE nor any member thereof shall be liable to any owner or project

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committee for any damage, loss, or prejudice suffered or claimed on account of (a) the approval of any plans, drawings, and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications, (c) the development, or manner of development of any property within Settler's Bay Village, provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 1. Noise Control. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises in the neighborhood shall not be operated within the subdivision. The operation of motorcycles and/or motorbikes except as transportation to and from a place of residence shall not be permitted. Snowmobiles on any paths, trails, or roads within the subdivision shall not be permitted except where designated and approved for such use.

Section 2. Recreation Trails. The perimeter of the subdivision is dedicated to the building and use of cross country ski trails and hiking trails, and shall not be used for any other than recreational purpose.

Section 3. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or thereafter imposed by the provisions of this Declaration. The failure to enforce the 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 effect any other provision which shall remain in full force and effect.

Section 5. Amendment. These Covenants, Conditions and Restrictions may be amended, modified, or revoked in any respect from time to time by Declarant prior to the time for mandatory conveyance of the common areas to the owners association. Subsequent to the time for mandatory conveyance of the common areas to the owners association, the Covenants, Conditions and Restricts may be amended, modified or revoked by a vote of the members of the Association who own seventy-five percent (75%) of the lots in the project.

Section 6. Phased Development. It is contemplated that the construction and development of SETTLER'S BAY SUBDIVISION may occur in phases; HOWEVER, no assurances are made or given that all the phases will be undertaken or completed or, if they are undertaken and completed, when such completion will occur.

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Accordingly, any time after seventy-five percent (75%) of the lots in Units One (1) and Two (2) of Settler's Bay Subdivision have been conveyed to Owners, said Owners may call for a special meeting to nominate and elect new directors and to manage the affairs of the Association as provided in the By-Laws; provided, however, that no actions may be taken or resolutions adopted which in any way would or could (1) preclude an Owner of a lot in subsequent phases of development from becoming a member concurrent with their becoming lot owners as herein contemplated; or (2) interfere with or restrain Declarant from completing the remaining phases, including the right of Declarant to make changes of whatever nature in any subsequent phase.

Section 1. Conveyance of Common Areas. Conveyance of the common areas shall occur upon ownership of 90% of the lots in the project by parties other than Declarant and its successors, or earlier in Declarants discretion.

IN WITNESS WHEREOF, SETTLER'S BAY PROPERTIES, INC., has caused these presents to be signed by its duly authorized officer this 13th day of May, 1981.

SETTLER'S BAY PROPERTIES, INC.

By: Richard Romer
Its: General Manager

81-005237
4100

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PALMER REC.
DISTRICT

MAY 13 11 46 AM '81

REQUEST State Title Insurance Agency, Inc.
ADDRESS 1000 DE PO, BOX 1810
ANCHORAGE, ALASKA 99507) ss.
THIRD JUDICIAL DISTRICT)

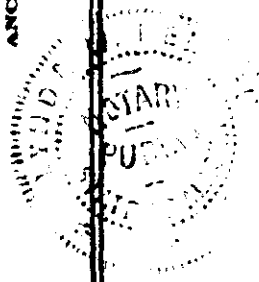
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ANCHORAGE, ALASKA 99501
(907) 570-8884

THIS IS TO CERTIFY that on the 13th day of May, 1981, before me, the undersigned, a Notary Public in and for Alaska, personally appeared Richard Romer, to me known and known to me to be the General Manager, of SETTLER'S BAY PROPERTIES, INC., and he acknowledged to me that he had in his official capacity aforesaid executed the foregoing instrument as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and notarial seal on the day and year in this certificate first above written.

Linda W. Beider
Notary Public in and for Alaska
My Commission Expires: 4-30-83



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BOOK 252 PAGE 892

AMENDMENTS TO
 AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THESE AMENDMENTS, made this 31 day of November, 1981, by SETTLER'S BAY PROPERTIES, INC., an Alaska corporation, hereinafter referred to as "Declarant",

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property in the Palmer Recording District, Third Judicial District, State of Alaska, more particularly described as:

SETTLER'S BAY SUBDIVISION, Unit No. 1, according to the official plat thereof filed under Plat No. 75-61, records of the Palmer Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-17, records of the Palmer Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-18, records of the Palmer Recording District, Third Judicial District, State of Alaska;

and,

WHEREAS, in Article VII, Section 5 of the Amended Declaration of Covenants, Conditions and Restrictions made on the 13th day of May, 1981, and recorded in Book 233, Page 455, of the Palmer Recording District, Third Judicial District, State of Alaska, the Declarant reserved the right to subsequently amend these Covenants, Conditions and Restrictions; and,

WHEREAS, Declarant wishes to amend the above-referenced Amended Declaration of Covenants, Conditions and Restrictions,

NOW, THEREFORE, Declarant hereby declares that those Sections set forth below of the Amended Declaration of Covenants, Conditions and Restrictions executed May 13, 1981, and recorded at Book 233, Page 455, of the Palmer Recording District, Third Judicial District, State of Alaska, are hereby amended to read as follows, Declarant reaffirming and republishing those other unaffected Sections of the Declaration as amended:

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Settler's Bay Owners Association, its successors, and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including

contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owner" shall further include one or more persons or entities who are purchasing pursuant to an installment or land sales contract and who will not be entitled to receive fee simple title of record until they have performed the terms of said installment or land sales contract (hereinafter referred to as "land sale contract" and/or "land sale contract purchaser").

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association by the development of latter phases of the Settler's Bay Subdivision.

Declarant shall have the right to include additional property in the future from time to time within the scope and purview of these Covenants, Conditions and Restrictions, as the same may be amended from time to time, and subject such additions to the jurisdiction and authority of the Association, which responsibility and obligation the Association hereby accepts. Said additional property and the Owners thereof shall be subject to these Covenants, Conditions and Restrictions as if originally included therein, and shall, among other things, pay and satisfy the fees and assessments herein set forth and otherwise abide by and perform the same.

Section 4. "Common Area" shall mean all real property now or hereafter owned by the Association for the common use and enjoyment of the Owners, whether or not said real property is actually owned by the Association; the criteria being that its use will benefit the Owners in common and will be available for the use of all Owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area and other tracted land.

Section 6. "Declarant" shall mean and refer to Settler's Bay Properties, Inc., an Alaska corporation, and its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, and each Owner who is purchasing pursuant to a land sales contract, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges; and, (ii) special assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who is the Owner of such property at the time when the

assessment fell due. Such personal obligations shall not pass to his successors in title unless expressly assumed by them.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date, as established by the Board of Directors, shall bear interest from the due date at the highest rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE V

LAND CLASSIFICATION USE
AND RESTRICTIVE COVENANTS

Section 4. Compliance with Government Requirements. Nothing contained herein shall relieve the Owner of the obligation to comply with applicable government requirements now or hereafter in effect.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 6. The ARCHITECTURAL CONTROL COMMITTEE may, from time to time and in its sole discretion, adopt, amend and repeal by unanimous vote, rules and regulations, including a fee for its costs, to be known as "ARCHITECTURAL CONTROL COMMITTEE RULES", which, among other things, interpret or implement the provisions of Article V, Sections Two (2) and Three (3). A copy of the ARCHITECTURAL CONTROL COMMITTEE RULES, as they may from time to time be adopted, amended or repealed, certified by any member of the ARCHITECTURAL CONTROL COMMITTEE, shall be recorded and shall thereupon have the same force as if it were a part of the Settler's Bay Village Restrictions.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 2. Recreation Trails. The perimeter of the subdivision designated as a pedestrian easement on the recorded plat map(s) is dedicated to the building and use of cross country ski trails and hiking trails, and shall not be used for any other than recreational purposes.

Section 5. Amendments. These Covenants, Conditions and Restrictions may be amended, modified or revoked in any respect from time to time by Declarant prior to the time of the first conveyance of a Common Area to the Owners Association. Subsequent to that time, the Covenants, Conditions and Restrictions may be amended, modified or revoked by a vote of the members of the Association who own seventy-five percent (75%) of the Lots in the project.

BOOK 252 PAGE 895

Section 7. Conveyance of Common Areas. Declarant, at any time and from time to time, may, at its sole discretion and option, but upon such terms and conditions as may be agreed upon with the Association, sell, convey and transfer all or any portion of the Common Areas to the Association; provided, however, that the Association must accept the tender of such conveyance and the real property described therein and accept the same as part of the Common Area if such tender is offered and made free and clear of liens and encumbrances.

IN WITNESS WHEREOF, SETTLER'S BAY PROPERTIES, INC. has caused these presents to be signed by its duly authorized officer this 3rd day of November, 1981.

SETTLER'S BAY PROPERTIES, INC.

By: Richard Roma
Its General Manager

STATE OF ALASKA)
) ss.
Third Judicial District)

THIS IS TO CERTIFY that on this 3rd day of November, 1981, before me, the undersigned, a notary public in and for Alaska, personally appeared Richard Roma, to me known and known to me to be the General Mgr. of SETTLER'S BAY PROPERTIES, INC., and he acknowledged to me that he had, in his official capacity aforesaid, executed the foregoing instrument as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and notarial seal on the day and year in this certificate first above written.



Jean M. Fike
Notary Public in and for Alaska
My commission expires: 4/6/82

82-000293
17-

RECORDED-FILED
PALMER REC.
DISTRICT

JAN 8 9 56 AM '82

REQUESTED BY _____

ADDRESS MAILING THIS INSTRUMENT TO: _____
P.O. BOX 1310
WASHILA, AK 99582

146750

RETURN TO:
BLEDSOE + SCHATT
4111 MINNESOTA DRIVE
SUITE 1
ANCH, AK. 99503
GORDON

RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

THIS RESTATEMENT, made this 4th day of February, 1982, by SETTLER'S BAY PROPERTIES, INC., an Alaska corporation, hereinafter referred to as "Declarant",

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property located in the Palmer Recording District, Third Judicial District, State of Alaska, more particularly described as:

SETTLER'S BAY SUBDIVISION, Unit No. 1, according to the official plat thereof filed under Plat No. 75-61, records of the Palmer Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-17, records of the Palmer Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-18, records of the Palmer Recording District, Third Judicial District, State of Alaska;

and,

WHEREAS, in Article VII, Section 5 of the Amended Declaration of Covenants, Conditions and Restrictions made on the 13th day of May, 1981, and recorded in Book 233, at Page 455, of the Palmer Recording District, Third Judicial District, State of Alaska, the Declarant reserved the right to subsequently amend these Covenants, Conditions and Restrictions; and,

WHEREAS, Declarant wishes to restate the Amended Declaration of Covenants, Conditions and Restrictions made on the 13th day of May, 1981, and recorded in Book 233, at Page 455, of the Palmer Recording District, Third Judicial District, State of Alaska, incorporating those changes made in the Amendments to Amended Declaration of Covenants, Conditions and Restrictions made on the 3rd day of November, 1981, and recorded in Book 252, at Page 892, of the Palmer Recording District, Third Judicial District, State of Alaska, so that the Restated Declaration of Covenants, Conditions and Restrictions will contain all pertinent provisions of both documents for ease of reference and interpretation,

NOW, THEREFORE, Declarant hereby declares that this Restatement contains, in integrated form, those provisions set forth in the above-referenced documents:

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to

Settler's Bay Owners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owner" shall further include one (1) or more persons or entities who are purchasing pursuant to an installment or land sales contract and who will not be entitled to receive fee simple title of record until they have performed the terms of said installment or land sales contract (hereinafter referred to as "land sale contract" and/or "land sale contract purchaser").

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association by the development of latter phases of the Settler's Bay Subdivision.

Declarant shall have the right to include additional property in the future from time to time within the scope and purview of these Covenants, Conditions and Restrictions, as the same may be amended from time to time, and subject such additions to the jurisdiction and authority of the Association, which responsibility and obligation the Association hereby accepts. Said additional property and the Owners thereof shall be subject to these Covenants, Conditions and Restrictions as if originally included therein, and shall, among other things, pay and satisfy the fees and assessments herein set forth and otherwise abide by and perform the same.

Section 4. "Common Area" shall mean all real property now or hereafter owned by the Association for the common use and enjoyment of the Owners, whether or not said real property is actually owned by the Association; the criteria being that its use will benefit the Owners in common and will be available for the use of all Owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area and other tracted land.

Section 6. "Declarant" shall mean and refer to Settler's Bay Properties, Inc., an Alaska corporation, and its successors and assigns if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to promulgate and enforce reasonable rules and regulations for the use of such facilities;

b. The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and,

c. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to regulations and assessment by the Association shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, the ownership of a Lot.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, and each Owner who is purchasing pursuant to a land sales contract, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges; and, (ii) special assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs

of collection thereof, shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due. Such personal obligations shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment and welfare of the Owners of the Properties, and for the improvement and maintenance of property, services and facilities devoted to such purposes.

Section 3. Maximum Annual Assessment. Until January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors shall be ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) per Lot.

a. From and after January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors without a vote of the membership shall be adjusted in relation to the Consumer Price Index for the Municipality of Anchorage, Alaska, issued by the Bureau of Labor Statistics of the United States Department of Labor, hereinafter referred to as the "price index figure"; provided, however, that in no event shall the maximum annual assessment be reduced to an amount less than ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) per Lot. The adjustment in the maximum annual assessment shall be determined as follows:

The price index figure for October, 1980, the price index figure for October of the year immediately preceding the year for which such adjustment is to be made and the sum of ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) shall be the basis upon which such adjustment shall be computed. The difference, if any, between the price index figure for October, 1980, and the price index figure for October of the year immediately preceding the year for which such adjustment is to be made shall be ascertained by subtracting the lesser from the greater of such figures. Thereafter, such difference shall be divided by the price index figure for October, 1980, which will provide the percentage of change, if any, in the price index figure. If such percentage of change represents an increase, then the maximum annual assessment for the following assessment year shall be ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00), plus the sum derived by multiplying the sum of ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) by such percentage of change.

In the event the Consumer Price Index issued by the United States Department of Labor be discontinued, or if there is a substantial change in the method of determining the price index figure from the base month of October, 1980, any other appropriate and suitable governmental index shall be used provided it offers a comparison between a period reasonably close to October, 1980, and the subsequent month being measured.

b. From and after January 1, 1983, the maximum annual assessment may be increased above the amount

otherwise allowable under "a." above to a stated maximum amount, applicable to that year only, by an affirmative vote of two-thirds (2/3) of each class of members who are voting on such resolution, in person or by proxy, at a meeting duly called for this purpose. This provision shall not apply to a pro-rata assessment of the cost of road maintenance following the failure of a majority of the qualified residents of the subdivision to vote in favor of the establishment of a service area for that purpose in an election held by the Matanuska-Susitna Borough.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting, in person or by proxy, at a meeting duly called for that purpose. The Board of Directors may provide for the payment of such special assessment on a monthly basis.

Section 5. Notice and Quorum for Action Authorized Under Section 3. Written notice of any membership meeting called for the purpose of taking any action authorized under Section 3 hereinabove shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of both classes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, except that unimproved Lots owned by the Declarant may be assessed at a rate of not less than one-half (1/2) the normal rate.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the recording of the Amended Declaration of Covenants, Conditions and Restrictions. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall thereafter fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, which may also provide for the payment of such assessment on a monthly basis. The Association shall, upon demand and for a reasonable charge, furnish to any Owner liable for an assessment a certificate, signed by an officer of the Association, setting forth whether the assessments on the property owned by such Owner have been paid.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within

thirty (30) days after the due date, as established by the Board of Directors, shall bear interest from the due date at the highest rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot pursuant to a foreclosure, or other proceeding in lieu thereof, of any first mortgage or deed of trust shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, but not as to any assessments thereafter becoming due.

ARTICLE V

LAND CLASSIFICATION USE AND RESTRICTIVE COVENANTS

Section 1. All land within Settler's Bay Village has been classified by permitted uses. The permitted uses and setbacks for each permitted use classification are therein provided.

Section 2. Single Family Residential. Lots One through Thirty-five (1-35) of Block One (1), Unit One (1), and Lots Three through Twenty-six (3-26) of Block Two (2), Unit One (1), and Lots Five through Twenty (5-20) and Lots Twenty-nine through Thirty-nine (29-39) of Block Three (3), Unit One (1), and Lots One through Five (1-5) of Block Four (4), Unit One (1), and Block Six (6), Block Seven (7), Block Eight (8), Block Nine (9) and Lots One through Twenty-six (1-26) and Lots Thirty-two through Fifty-one (32-51) of Block Eleven (11), and Lots One through Eighteen (1-18) of Block Twelve (12) and Blocks Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), and Lots One through Thirty-one (1-31) of Block Twenty-three (23), Block Twenty-three A (23 A), Block Twenty-four (24), Block Twenty-four A (24 A), Block Twenty-five (25), and Block Twenty-six (26), all in Unit Two (2), Settler's Bay Village. Lots of this classification shall be used for single family homes, including accessory buildings; subject, however, to all of the following limitations and restrictions:

a. No building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than twenty (20) feet to the rear lot line, or nearer than ten (10) feet to the side lot lines, except that corner lots shall have a building set-back of fifteen (15) feet from the street side lot line.

b. An accessory building is defined as a detached subordinate building, the use of which is customarily incidental to that of the main buildings, such as private garage or garden tool storage shed.

c. No improvement, excavation, or other work which in any way alters any private area from its natural or improved state as existing on the date such private area

was first conveyed in fee by grantor to an owner shall be made or done except upon strict compliance with, and within the restrictions of, the provisions of Article VI.

d. The private area of each lot shall be used exclusively for single family residential purposes, (including its servants and transient guests) provided, however, that nothing in this paragraph (d) shall be deemed to prevent:

(1) Any artist, artisan, or craftsman from pursuing his artistic calling if such artist, artisan, or craftsman also uses such private area for residential purposes, is self-employed, and has no employees working in such private area, and does not advertise or offer any product or work of art for sale to the public upon or from such private area.

(2) The leasing of any lot from time to time by the owner thereof, subject, however, to all of the provisions of the Settler's Bay Village Restrictions.

e. Each private area, and any and all improvements from time to time located thereon, shall be maintained by the owner thereof in good condition and repair.

f. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to other owners in the enjoyment of their lots. No repair or restoration of any motor vehicle, boat, trailer, aircraft, or other vehicle shall be permitted on any portion of any lot except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility.

g. No domestic animals or fowl other than a reasonable number of generally recognized house or yard pets shall be maintained on any private area. None of the animals shall be permitted to run at large.

h. No sign or billboard, including but without limitation, commercial, political, and similar signs shall be erected, posted, painted, or displayed upon any private area, except:

(1) Such signs as may be required by legal proceedings,

(2) Residential identification signs of a combined total face area of three (3) square feet or less for each residence,

(3) During the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors or subcontractors,

(4) Signs advertising the property for sale.

i. No house trailer, mobile home, permanent tent, or similar facility or structure shall be placed on any lot except to serve as a single family dwelling during the construction of a permanent home, and said house trailer, mobile home, permanent tent, or similar facility or structure is to be removed upon completion of the permanent dwelling. In no event shall said house trailer, mobile home, permanent tent, or similar facility or structure or succession of such structures remain on any lot for more than twelve (12) months.

j. No accessory structures or buildings shall be constructed, placed or maintained upon any private area prior to the construction of the main structure of the residence; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with, the construction of the main structure of the residence.

k. The owner shall not be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared to provide for construction, and trees may be thinned so long as the natural beauty and aesthetic value of the natural foliage is retained.

l. All garbage and trash shall be placed and kept in covered containers and shall not be permitted to remain upon any private area for any period of time in excess of that normally required for regular garbage disposal.

m. There shall be no exterior fires whatsoever except barbeque fires contained within receptacles therefor.

Section 3. General and Strip Commercial Business District. Lots One (1), Two (2), and Lots Twenty-seven through Forty-seven (27-47) of Block Two (2), Unit One (1). Lots One through Four (1-4) and Lots Twenty-one through Twenty-eight (21-28) of Block Three (3), Unit One (1). Lots Six through Seventeen (6-17) of Block Four (4), Unit One (1). Lots of this classification are intended specifically for those areas surrounding intersections where personal services, conveniences, goods, and auto-related service facilities are desirable and appropriate land uses. Lots of this classification are subject to the following:

a. Any lot used or designated for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare, or convenience.

b. Buildings shall be set back a minimum of twenty-five (25) feet from front lot lines and twenty (20) feet from rear lot lines and a minimum of ten (10) feet from side lot lines, except that corner lots shall have building set-back of fifteen (15) feet from the street side lot line.

c. No house trailer, mobile home, or similar

facility or structure shall be placed on any lot except to serve as a retail display which would be required in the normal operation of an established business. In no event shall said house trailer, mobile home, or similar facility or structure be used as a private residence.

Section 4. Compliance with Government Requirements. Nothing contained herein shall relieve the Owner of the obligation to comply with applicable government requirements now or hereafter in effect.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Each single family residence to be constructed in Block Six (6), Lots One through Twenty-six (1-26) in Block Seven (7), Block Sixteen (16) and Block Twenty-six (26) of Unit Two (2), Settler's Bay Village shall contain a minimum of 1,400 square feet of living area. Each single family residence to be constructed in Block One (1), Block Two (2), Block Three (3), and Block Four (4) of Unit One (1), and Lots Twenty-seven through Sixty-nine (27-69) in Block Seven (7), Block Eight through Fifteen (8-15), and Block Seventeen through Twenty-five (17-25) of Unit Two (2) Settler's Bay Village shall contain a minimum of 1,000 square feet of living area. A garage either attached to or detached from the main structure of the residence is not to be construed as living area.

Section 2. No building, fence, wall, 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 natural kind, shape, height, materials, and locations 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 ARCHITECTURAL CONTROL COMMITTEE which is composed of three (3) or more representatives appointed by Settler's Bay Properties, Inc. At any time, the then record owners of seventy-five percent (75%) of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. In the event said committee fails to approve or disapprove such design and location within twenty (20) days after said plans and specifications have been submitted to it, this article will be deemed to have been fully complied with.

Section 3. No building shall be erected, placed, or altered on any lot, part or portion of the property without the installation of a permanent foundation. All construction plans, specifications and dwellings will be required to meet standard FHA building codes. One set of plans as finally approved shall be retained and maintained by the ARCHITECTURAL CONTROL COMMITTEE as a permanent record.

Section 4. If within the twenty (20) day period referred to in Section 2, the members of the ARCHITECTURAL CONTROL COMMITTEE, in their sole discretion, unanimously find that the proposed work would, for any reason whatsoever be incompatible with Settler's Bay Village, then the committee shall not approve the plans, drawings, and specifications submitted to it, and shall so notify the owner concerned in writing setting forth the reasons for such disapproval.

Section 5. The ARCHITECTURAL CONTROL COMMITTEE shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the ARCHITECTURAL CONTROL COMMITTEE unless the unanimous decision of its members is otherwise required by the Settler's Bay Village Restrictions.

Section 6. The ARCHITECTURAL CONTROL COMMITTEE may, from time to time and in its sole discretion, adopt, amend and repeal by unanimous vote, rules and regulations, including a fee for its costs, to be known as "ARCHITECTURAL CONTROL COMMITTEE RULES", which, among other things, interpret or implement the provisions of Article V, Sections Two (2) and Three (3). A copy of the ARCHITECTURAL CONTROL COMMITTEE RULES, as they may from time to time be adopted, amended or repealed, certified by any member of the ARCHITECTURAL CONTROL COMMITTEE, shall be recorded and shall thereupon have the same force as if it were a part of the Settler's Bay Village Restrictions.

Section 7. Neither the ARCHITECTURAL CONTROL COMMITTEE nor any member thereof shall be liable to any owner or project committee for any damage, loss, or prejudice suffered or claimed on account of (a) the approval of any plans, drawings, and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications, (c) the development, or manner of development of any property within Settler's Bay Village, provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 1. Noise Control. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises in the neighborhood shall not be operated within the subdivision. The operation of motorcycles and/or motorbikes except as transportation to and from a place of residence shall not be permitted. Snowmobiles on any paths, trails, or roads within the subdivision shall not be permitted except where designated and approved for such use.

Section 2. Recreation Trails. The perimeter of the subdivision designated as a pedestrian easement on the recorded plat map(s) is dedicated to the building and use of cross country ski trails and hiking trails, and shall not be used for any other than recreational purposes.

Section 3. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or thereafter imposed by the provisions of this Declaration. The failure to enforce the 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 effect any other provision which shall remain in full force and effect.

Section 5. Amendments. These Covenants, Conditions and Restrictions may be amended, modified or revoked in any respect from time to time by Declarant prior to the time of the first

conveyance of a Common Area to the Owners Association. Subsequent to that time, the Covenants, Conditions and Restrictions may be amended, modified or revoked by a vote of the members of the Association who own seventy-five percent (75%) of the Lots in the project.

Section 6. Phased Development. It is contemplated that the construction and development of SETTLER'S BAY SUBDIVISION may occur in phases; HOWEVER, no assurances are made or given that all the phases will be undertaken or completed or, if they are undertaken and completed, when such completion will occur.

Accordingly, any time after seventy-five percent (75%) of the lots in Units One (1) and Two (2) of Settler's Bay Subdivision have been conveyed to Owners, said Owners may call for a special meeting to nominate and elect new directors and to manage the affairs of the Association as provided in the By-Laws; provided, however, that no actions may be taken or resolutions adopted which in any way would or could (1) preclude an Owner of a lot in subsequent phases of development from becoming a member concurrent with their becoming lot owners as herein contemplated; or (2) interfere with or restrain Declarant from completing the remaining phases, including the right of Declarant to make changes of whatever nature in any subsequent phase.

Section 7. Conveyance of Common Areas. Declarant, at any time and from time to time, may, at its sole discretion and option, but upon such terms and conditions as may be agreed upon with the Association, sell, convey and transfer all or any portion of the Common Areas to the Association; provided, however, that the Association must accept the tender of such conveyance and the real property described therein and accept the same as part of the Common Area if such tender is offered and made free and clear of liens and encumbrances.

IN WITNESS WHEREOF, SETTLER'S BAY PROPERTIES, INC. has caused this Restatement to be signed by its duly authorized officer this 4th day of February, 1982.

SETTLER'S BAY PROPERTIES, INC.

By: Richard Romer
Richard Romer, General Manager

STATE OF ALASKA)
) ss.
Third Judicial District)

THIS IS TO CERTIFY that on this 4th day of February, 1982, before me, the undersigned, a Notary Public in and for Alaska, personally appeared Richard Romer, known to me and to me known to be the General Manager of the corporation named in the foregoing instrument, and he acknowledged to me that he had, in his official capacity aforesaid, executed the foregoing instrument as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the day and year in this certificate first above written.



Jean M. Fike
Notary Public in and for Alaska.
My commission expires: 6/6/82

82-001622

4/00

RECORDED FILED
PALMER REC.
DISTRICT

FEB 8 10 14 AM '82

REQUESTED BY Seaside Bay Properties

ADDRESS P.O. Box 1080
Wasilla, AK 99687

147154 147154

RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS RESTATEMENT, made this 23rd day of July, 1982, by SETTLER'S BAY PROPERTIES, INC., an Alaska corporation, hereinafter referred to as "Declarant,"

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property located in the Palmer Recording District, Third Judicial District, State of Alaska, more particularly described as:

SETTLER'S BAY SUBDIVISION, Unit No. 1, according to the official plat thereof filed under Plat No. 75-61, records of the Palmer Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-17, records of the Palmer Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-18, records of the Palmer Recording District, Third Judicial District, State of Alaska;

and,

WHEREAS, in Article VII, Section 5 of the Amended Declaration of Covenants, Conditions and Restrictions made on the 13th day of May 1981, and recorded in Book 233, at Page 455, of the Palmer Recording District, Third Judicial District, State of Alaska, the Declarant reserved the right to subsequently amend these Covenants, Conditions and Restrictions; and

WHEREAS, Declarant wishes to amend and restate the Restated Declaration of Covenants, Conditions and Restrictions made the 4th day of February 1982, and recorded in Book 255, Page 49, Palmer Recording District, Third Judicial District, State of Alaska, so that the Restated Declaration of Covenants, Conditions and Restrictions will contain all pertinent provisions of both documents for ease of reference and interpretation.

NOW, THEREFORE, Declarant hereby declares that this Restatement contains, in integrated form, those provisions set forth in the above-referenced documents:

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Settler's Bay Owners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether or not the owner holds title in fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owner" shall further include one (1) or more persons or entities who are purchasing pursuant to an installment or land sales contract and who will not be entitled to receive fee simple title of record until they have performed the terms of said installment

or land sales contract (hereinafter referred to as "land sale contract" and/or "land sale contract purchaser").

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association by the development of latter phrases of the Settler's Bay Subdivision.

Declarant shall have the right to include additional property in the future from time to time within the scope and purview of these Covenants, Conditions and Restrictions, as the same may be amended from time to time, and subject such additions to the jurisdiction and authority of the Association, which responsibility and obligation the Association hereby accepts. Said additional property and the Owners thereof shall be subject to these Covenants, Conditions and Restrictions as if originally included therein, and shall, among other things, pay and satisfy the fees and assessments herein set forth and otherwise abide by and perform the same.

Section 4. "Common Area" shall mean all real property now or hereafter owned by the Association for the common use and enjoyment of the Owners, whether or not said real property is actually owned by the Association; the criteria being that its use will benefit the Owners in common and will be available for the use of all Owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area and other tracted land.

Section 6. "Declarant" shall mean and refer to Settler's Bay Properties, Inc., an Alaska corporation, and its successors and assigns if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to promulgate and enforce reasonable rules and regulations for the use of such facilities;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot is in arrears for a period of more than sixty (60) days for any infraction of its published rules and regulations; and

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be

agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to regulations and assessment by the Association shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, the ownership of a Lot.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, and each Owner who is purchasing pursuant to a land sales contract, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges; and, (ii) special assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest thereon and costs of

person who is the Owner of such property at the time when the assessment fell due. Such personal obligations shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment

and welfare of the Owners of the Properties, and for the improvement and maintenance of property, services and facilities devoted to such purpose.

Section 3. Maximum Annual Assessment. Until January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors shall be ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) per Lot.

(a) From and after January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors without a vote of the membership shall be adjusted in relation to the Consumer Price Index for the Municipality of Anchorage, Alaska, issued by the Bureau of Labor Statistics of the United States Department of Labor, hereinafter referred to as the "price index figure"; provided, however, that in no event shall the maximum annual assessment be reduced to an amount less than ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) per Lot. The adjustment in the maximum annual assessment shall be determined as follows:

The price index figure for October 1980, the price index figure for October of the year immediately preceding the year for which such adjustment is to be made and the sum of ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) shall be the basis upon which such adjustment shall be computed. The difference, if any, between the price index figure for October 1980, and the price index figure for October of the year immediately preceding the year for which such adjustment is to be made shall be ascertained by subtracting the lesser from the greater of such figures. Thereafter, such difference shall be divided by the price index figure for October 1980, which will provide the percentage of change, if any, in the price index figure. If such percentage of change represents an increase, then the maximum annual assessment for the following assessment year shall be ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00), plus the sum derived by multiplying the sum of ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) by such percentage of change.

In the event the Consumer Price Index issued by the United States Department of Labor be discontinued, or if there is a substantial change in the method of determining the price index figure from the base month of October 1980, any other appropriate and suitable governmental index shall be used provided it offers a comparison between a period reasonably close to October 1980 and the subsequent month being measured.

maximum annual assessment may be increased above the amount otherwise allowable under "a" above to a stated maximum amount, applicable to that year only, by an affirmative vote of two-thirds (2/3) of each class of members who are voting on such resolution, in person or by proxy, at a meeting duly called for this purpose. This provision shall not apply to a pro rata assessment of the

cost of road maintenance following the failure of a majority of the qualified residents of the subdivision to vote in favor of the establishment of a service area for that purpose in an election held by the Matanuska-Susitna Borough.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting, in person or by proxy, at a meeting duly called for that purpose. The Board of Directors may provide for the payment of such special assessment on a monthly basis.

Section 5. Notice and Quorum for Action Authorized Under Section 3. Written notice of any membership meeting called for the purpose of taking any action authorized under Section 3 hereinabove shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of both classes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, except that unimproved Lots owned by the Declarant may be assessed at a rate of not less than one-half (1/2) the normal rate.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the recording of the Amended Declaration of Covenants, Conditions and Restrictions. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall thereafter fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, which may also provide for the payment of such assessment on a monthly basis. The Association shall, upon demand and for a reasonable charge, furnish to any Owner liable for an assessment a certificate, signed by an officer of the Association, setting forth whether the assessments on the property owned by such Owner have been paid.

Section 8. Effect of Nonpayment of Assessments: Any assessment not paid within thirty (30) days of the due date shall bear interest from the due date at the highest rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot pursuant to a foreclosure or other proceeding in lieu thereof, of any first mortgage or deed of trust shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, but not as to any assessments thereafter becoming due.

ARTICLE V

LAND CLASSIFICATION USE AND RESTRICTIVE COVENANTS

Section 1. All land within Settler's Bay Village has been classified by permitted uses. The permitted uses and setbacks for each permitted use classification are therein provided.

Section 2. Single Family Residential. Lots One through thirty-five (1-35) of Block One (1), Unit One (1) and Lots Three through Twenty-five (3-25) of Block Two (2), Unit One (1), and Lots Five through Twenty (5-20) and Lots Twenty-nine through Thirty-nine (29-39) of Block Three (3), Unit One (1), and Lots One through Five (1-5) of Block four (4), Unit One (1), and Block Six (6), Block Seven (7), Block Eight (8), Block Nine (9) and Lots One through Twenty-six (1-26) and Lots Thirty-two through Fifty-one (32-51) of Block Eleven (11), and Lots One through Eighteen (1-18) of Block Twelve (12) and Blocks Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), and Lots One through Thirty-one (1-31) of Block Twenty-three (23), Block Twenty-three A (23 A), Block Twenty-four (24), Block Twenty-four A (24 A), Block Twenty-five (25) and Block Twenty-six (26), all in Unit Two (2), Settler's Bay Village. Lots of this classification shall be used for single family homes, including accessory buildings; subject, however, to all of the following limitations and restrictions:

(a) No building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than twenty (20) feet to the rear lot line, or nearer than ten (10) feet to the side lot lines, except that corner lots shall have a building set-back of fifteen (15) feet from the street side lot line.

(b) An accessory building is defined as a detached subordinate building, the use of which is customarily incidental to that of the main buildings, such as private garage or garden tool storage shed.

(c) No improvement, excavation or other work which in any way alters any private area from its natural or improved state as existing on the date such private area was first conveyed in fee by upon strict compliance with and within the restrictions of, the provisions of Article VI.

(d) The private area of each lot shall be used exclusively for single family residential purposes (including its servants and transient guests) provided, however, that nothing in this paragraph (d) shall be deemed to prevent:

(1) Any artist, artisan or craftsman from pursuing his artistic calling if such artist, artisan or craftsman also uses such private area for residential purposes, is self-employed and has no employees working in such private area and does not advertise or offer any product or work of art for sale to the public upon or from such private area.

(2) The leasing of any lot from time to time by the owner thereof, subject, however, to all of the provisions of the Settler's Bay Village Restrictions.

(e) Each private area and any and all improvements from time to time located thereon, shall be maintained by the owner thereof in good condition and repair.

(f) No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become, a nuisance or cause unreasonable embarrassment, disturbance or annoyance to other owners in the enjoyment of their lots. No repair or restoration of any motor vehicle, boat, trailer, aircraft or other vehicle shall be permitted on any portion of any lot except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility.

(g) No domestic animals or fowl other than a reasonable number of generally recognized house or yard pets shall be maintained on any private area. None of the animals shall be permitted to run at large.

(h) No sign or billboard, including but without limitation, commercial, political and similar signs shall be erected, posted, painted or displayed upon any private area, except:

(1) Such signs as may be required by legal proceedings.

(2) Residential identification signs of a combined total face area of three (3) square feet or less for each residence.

(3) During the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors or subcontractors.

(4) Signs advertising the property for sale.

(i) No house trailer, mobile home, permanent tent, or similar facility or structure shall be placed on any lot except to serve as a single family dwelling during the construction of a permanent home, and said house trailer, mobile home, permanent tent or similar facility or structure is to be removed upon completion of the permanent dwelling. In no event shall said house trailer, mobile home, permanent tent or similar

facility or structure or succession of such structures remain on any lot for more than twelve (12) months.

(j) No accessory structures or buildings shall be constructed, placed or maintained upon any private area prior to the construction of the main structure of the residence; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with, the construction of the main structure of the residence.

(k) The owner shall not be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared to provide for construction and trees may be thinned so long as the natural beauty and aesthetic value of the natural foliage is retained.

(l) All garbage and trash shall be placed and kept in covered containers and shall not be permitted to remain upon any private area for any period of time in excess of that normally required for regular garbage disposal.

(m) There shall be no exterior fires whatsoever except barbeque fires contained within receptacles therefor.

Section 3. General and Strip Commercial Business District. Lots One (1), Two (2), and Lots Twenty-six through Forty-seven (26-47) of Block Two (2), Unit One (1). Lots One through Four (1-4) and Lots Twenty-One through Twenty-eight (21-28) of Block Three (3), Unit One (1). Lots Six through Seventeen (6-17) of Block Four (4), Unit One (1). Lots of this classification are intended specifically for those areas surrounding intersections where personal services, conveniences, goods and auto related service facilities are desirable and appropriate land uses. Lots of this classification are subject to the following:

(a) Any lot used or designated for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation or to a degree injurious to the public health, safety, welfare or convenience.

(b) Buildings shall be set back a minimum of twenty-five (25) feet from front lot lines and twenty (20) feet from rear lot lines and a minimum of ten (10) feet from side lot lines, except that corner lots shall have building set-back of

(c) No house trailer, mobile home or similar facility or structure shall be placed on any lot except to serve as a retail display which would be required in the normal operation of an established business. In no event shall said house trailer, mobile home or similar facility or structure be used as a private residence.

Section 4. Compliance with Government Requirements. Nothing contained herein shall relieve the Owner of the obligation to comply with applicable government requirements now or hereafter in effect.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Each single family residence to be constructed in Block Six (6), Lots One through Twenty-six (1-26) in Block Seven (7), Block Sixteen (16) and Block Twenty-six (26) of Unit Two (2), Settler's Bay Village shall contain a minimum of 1,400 square feet of living area. Each single family residence to be constructed in Block One (1), Block Two (2), Block Three (3) and Block Four (4) of Unit One (1), and Lots Twenty-seven through Sixty-nine (27-69) in Block Seven (7), Block Eight through Fifteen (8-15), and Block Seventeen through Twenty-five (17-25) of Unit Two (2) Settler's Bay Village shall contain a minimum of 1,000 square feet of living area. A garage either attached to or detached from the main structure of the residence is not to be construed as living area.

Section 2. No building, fence, wall 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 natural kind, shape, height, materials and locations 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 ARCHITECTURAL CONTROL COMMITTEE which is composed of three (3) or more representatives appointed by Settler's Bay Properties, Inc. At any time the then record owners of seventy-five percent (75%) of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. In the event said committee fails to approve or disapprove such design and location within twenty (20) days after said plans and specifications have been submitted to it, this article will be deemed to have been fully complied with.

Section 3. No building shall be erected, placed or altered on any lot, part or portion of the property without the installation of a permanent foundation. All construction plans, specifications and drawings will be required to meet standard FHA building codes. One set of plans as finally approved shall be retained and maintained by the ARCHITECTURAL CONTROL COMMITTEE as a permanent record.

Section 4. If within the twenty (20) day period referred to in Section 2, the members of the ARCHITECTURAL CONTROL COMMITTEE, in their sole discretion, unanimously find that the proposed work would, for any reason whatsoever be incompatible with Settler's Bay Village, then the committee shall not approve the plans, drawings and specifications submitted to it and shall so notify the owner concerned in writing setting forth the reasons for such disapproval.

The members of the ARCHITECTURAL CONTROL COMMITTEE shall meet from time to time as necessary to properly perform the duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the ARCHITECTURAL CONTROL COMMITTEE unless the unanimous decision of its members is otherwise required by the Settler's Bay Village Restrictions.

Section 6. The ARCHITECTURAL CONTROL COMMITTEE may, from time to time and in its sole discretion, adopt, amend and repeal by unanimous vote, rules and regulations, including a fee for its costs, to be known as "ARCHITECTURAL CONTROL COMMITTEE RULES," which, among other things, interpret or implement the provisions of Article V, Sections Two (2) and Three (3). A copy of the ARCHITECTURAL CONTROL COMMITTEE RULES, as they may from time to time be adopted, amended or repealed, certified by any member of the ARCHITECTURAL CONTROL COMMITTEE, shall be recorded and shall thereupon have the same force as if it were a part of the Settler's Bay Village Restrictions.

Section 7. Neither the ARCHITECTURAL CONTROL COMMITTEE nor any member thereof shall be liable to any owner or project committee for any damage, loss or prejudice suffered or claimed on account of (a) the approval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development or manner of development of any property within Settler's Bay Village; provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 1. Noise Control. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises in the neighborhood shall not be operated within the subdivision. The operation of motorcycles and/or motorbikes except as transportation to and from a place of residence shall not be permitted. Snowmobiles on any paths, trails or roads within the subdivision shall not be permitted except where designated and approved for such use.

Section 2. Recreation Trails. The perimeter of the subdivision designated as a pedestrian easement on the recorded plat map(s) is dedicated to the building and use of cross country ski trails and hiking trails and shall not be used for any other than recreational purposes.

Section 3. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions of this Declaration. The failure to enforce the 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 effect any other provision which shall remain in full force and effect.

Section 5. Amendments. These Covenants, Conditions and Restrictions may be amended, modified or revoked in any respect from time to time by Declarant prior to the time of the first conveyance of a Common Area to the Owners Association. Restrictions may be amended, modified or revoked by a majority of members of the Association who own seventy-five percent (75%) of the Lots in the project.

Section 6. Phased Development. It is contemplated that the construction and development of SETTLER'S BAY SUBDIVISION may occur in phases; however, no assurances are made

or given that all the phases will be undertaken or completed or, if they are undertaken and completed, when such completion will occur.

Accordingly, any time after seventy-five percent (75%) of the lots in Units One (1) and Two (2) of Settler's Bay Subdivision have been conveyed to Owners, said Owners may call for a special meeting to nominate and elect new directors and to manage the affairs of the Association as provided in the By-Laws; provided, however, that no actions may be taken or resolutions adopted which in any way would or could (1) preclude an Owner of a lot in subsequent phases of development from becoming a member concurrent with their becoming lot owners as herein contemplated; or (2) interfere with or restrain Declarant from completing the remaining phases, including the right of Declarant to make changes of whatever nature in any subsequent phase.

Section 7. Conveyance of Common Areas. Declarant, at any time and from time to time may, at its sole discretion and option, but upon such terms and conditions as may be agreed upon with the Association, sell, convey and transfer all or any portion of the Common Areas to the Association; provided, however, that the Association must accept the tender of such conveyance and the real property described therein and accept the same as part of the Common Area if such tender is offered and made free and clear of liens and encumbrances.

IN WITNESS WHEREOF, SETTLER'S BAY PROPERTIES, INC. has caused this Restatement to be signed by its duly authorized officer this 23rd day of July, 1982.

SETTLER'S BAY PROPERTIES, INC.

By Richard Romer
Richard Romer, General Manager

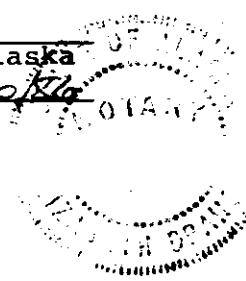
STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 23rd day of July 1982, before me the undersigned, a Notary Public in and for Alaska, personally appeared Richard Romer, known to me and to me known to be the General Manager of the corporation named in the forgoing instrument, and he acknowledged to me that he had, in his official capacity aforesaid, executed the foregoing instrument as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the day and year in this certificate first above written.

82- 010730
38-

Elizabeth Duakosh
Notary Public in and for Alaska
My commission expires: 1/20/84



DISTRICT
Jul 29 12 06 PM '82
REQUESTED BY _____
ADDRESS ALASKA TITLE GUARANTY COMPANY
BOX 1048
PALMER, ALASKA 99648

170976

**RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

THIS RESTATEMENT, made this 13th day of December, 1982, by SETTLER'S BAY PROPERTIES, INC., an Alaska corporation, hereinafter referred to as "Declarant,"

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property located in the Palmer Recording District, Third Judicial District, State of Alaska, more particularly described as:

SETTLER'S BAY SUBDIVISION, Unit No. 1, according to the official plat thereof filed under Plat No. 75-61, records of the Palmer Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-17, records of the Palmer Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, Unit No. 2, according to the official plat thereof filed under Plat No. 77-18, records of the Palmer Recording District, Third Judicial District, State of Alaska;

and,

WHEREAS, in Article VII, Section 5 of the Amended Declaration of Covenants, Conditions and Restrictions made on the 13th day of May 1981, and recorded in Book 233, at Page 455, of the Palmer Recording District, Third Judicial District, State of Alaska, the Declarant reserved the right to subsequently amend these Covenants, Conditions and Restrictions; and

WHEREAS, Declarant wishes to amend and restate the Restated Declaration of Covenants, Conditions and Restrictions made the 23rd day of July, 1982, and recorded in Book 269, Page 606, Palmer Recording District, Third Judicial District, State of Alaska, so that the Restated Declaration of Covenants, Conditions and Restrictions will contain all pertinent provisions of both documents for ease of reference and interpretation.

NOW, THEREFORE, Declarant hereby declares that this Restatement contains, in integrated form, those provisions set forth in the above-referenced documents:

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Settler's Bay Owners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owner" shall further include one (1) or

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more persons or entities who are purchasing pursuant to an installment or land sales contract and who will not be entitled to receive fee simple title of record until they have performed the terms of said installment or land sales contract (hereinafter referred to as "land sale contract" and/or "land sale contract purchaser").

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association by the development of latter phrases of the Settler's Bay Subdivision.

Declarant shall have the right to include additional property in the future from time to time within the scope and purview of these Covenants, Conditions and Restrictions, as the same may be amended from time to time, and subject such additions to the jurisdiction and authority of the Association, which responsibility and obligation the Association hereby accepts. Said additional property and the Owners thereof shall be subject to these Covenants, Conditions and Restrictions as if originally included therein, and shall, among other things, pay and satisfy the fees and assessments herein set forth and otherwise abide by and perform the same.

Section 4. "Common Area" shall mean all real property now or hereafter owned by the Association for the common use and enjoyment of the Owners, whether or not said real property is actually owned by the Association; the criteria being that its use will benefit the Owners in common and will be available for the use of all Owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area and other tracted land.

Section 6. "Declarant" shall mean and refer to Settler's Bay Properties, Inc., an Alaska corporation, and its successors and assigns if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to promulgate and enforce reasonable rules and regulations for the use of such facilities;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed

sixty (60) days for any infraction of its published rules and regulations; and

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to regulations and assessment by the Association shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, the ownership of a Lot.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, and each Owner who is purchasing pursuant to a land sales contract, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges; and, (ii) special assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, shall be a continuing lien upon the property against which each such assessment is made. Each

such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due. Such personal obligations shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment and welfare of the Owners of the Properties, and for the improvement and maintenance of property, services and facilities devoted to such purpose.

Section 3. Maximum Annual Assessment. Until January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors shall be ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) per Lot.

(a) From and after January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors without a vote of the membership shall be adjusted in relation to the Consumer Price Index for the Municipality of Anchorage, Alaska, issued by the Bureau of Labor Statistics of the United States Department of Labor, hereinafter referred to as the "price index figure"; provided, however, that in no event shall the maximum annual assessment be reduced to an amount less than ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) per Lot. The adjustment in the maximum annual assessment shall be determined as follows:

The price index figure for October 1980, the price index figure for October of the year immediately preceding the year for which such adjustment is to be made and the sum of ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) shall be the basis upon which such adjustment shall be computed. The difference, if any, between the price index figure for October 1980, and the price index figure for October of the year immediately preceding the year for which such adjustment is to be made shall be ascertained by subtracting the lesser from the greater of such figures. Thereafter, such difference shall be divided by the price index figure for October 1980, which will provide the percentage of change, if any, in the price index figure. If such percentage of change represents an increase, then the maximum annual assessment for the following assessment year shall be ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00), plus the sum derived by multiplying the sum of ONE HUNDRED FIFTY and 00/100 DOLLARS (\$150.00) by such percentage of change.

In the event the Consumer Price Index issued by the United States Department of Labor be discontinued, or if there is a substantial change in the method of determining the price index figure from the base month of October 1980, any other appropriate and suitable governmental index shall be used provided it offers a comparison between a period reasonably close to October 1980 and the subsequent month being measured.

(b) From and after January 1, 1983, the maximum annual assessment may be increased above the amount otherwise allowable under "a" above to a stated maximum amount, applicable to that year only, by an affirmative vote of two-thirds (2/3) of each class of members who are voting on such resolution, in person or by proxy, at a meeting duly called for this purpose. This provision shall not apply to a pro rata assessment of the cost of road maintenance following the failure of a majority of the qualified residents of the subdivision to vote in favor of the establishment of a service area for that purpose in an election held by the Matanuska-Susitna Borough.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting, in person or by proxy, at a meeting duly called for that purpose. The Board of Directors may provide for the payment of such special assessment on a monthly basis.

Section 5. Notice and Quorum for Action Authorized Under Section 3. Written notice of any membership meeting called for the purpose of taking any action authorized under Section 3 hereinabove shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of both classes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, except that unimproved Lots owned by the Declarant may be assessed at a rate of not less than one-half (1/2) the normal rate.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the recording of the Amended Declaration of Covenants, Conditions and Restrictions. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall thereafter fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, which may also provide for the payment of such assessment on a monthly basis. The Association shall, upon demand and for a reasonable charge, furnish to any Owner liable for an assessment a certificate, signed by an officer

of the Association, setting forth whether the assessments on the property owned by such Owner have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date, as established by the Board of Directors, shall bear interest from the due date at the highest rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot pursuant to a foreclosure or other proceeding in lieu thereof, of any first mortgage or deed of trust shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, but not as to any assessments thereafter becoming due.

ARTICLE V

LAND CLASSIFICATION USE AND RESTRICTIVE COVENANTS

Section 1. All land within Settler's Bay Village has been classified by permitted uses. The permitted uses and setbacks for each permitted use classification are therein provided.

Section 2. Single Family Residential. Lots One through thirty-four (1-34) of Block One (1), Unit One (1) and Lots Three through Twenty-five (3-25) of Block Two (2), Unit One (1), and Lots Five through Twenty (5-20) and Lots Twenty-nine through Thirty-nine (29-39) of Block Three (3), Unit One (1), and Lots One through Five (1-5) of Block four (4), Unit One (1), and Block Six (6), Block Seven (7), Block Eight (8), Block Nine (9) and Lots One through Twenty-six (1-26) and Lots Thirty-two through Fifty-one (32-51) of Block Eleven (11), and Lots One through Eighteen (1-18) of Block Twelve (12) and Blocks Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), and Lots One through Thirty-one (1-31) of Block Twenty-three (23), Block Twenty-three A (23 A), Block Twenty-four (24), Block Twenty-four A (24 A), Block Twenty-five (25) and Block Twenty-six (26), all in Unit Two (2), Settler's Bay Village. Lots of this classification shall be used for single family homes, including accessory buildings; subject, however, to all of the following limitations and restrictions:

(a) No building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than twenty (20) feet to the rear lot line, or nearer than ten (10) feet to the side lot lines, except that corner lots shall have a building set-back of fifteen (15) feet from the street side lot line.

(b) An accessory building is defined as a detached subordinate building, the use of which is

customarily incidental to that of the main buildings, such as private garage or garden tool storage shed.

(c) No improvement, excavation or other work which in any way alters any private area from its natural or improved state as existing on the date such private area was first conveyed in fee by grantor to an owner shall be made or done except upon strict compliance with and within the restrictions of, the provisions of Article VI.

(d) The private area of each lot shall be used exclusively for single family residential purposes (including its servants and transient guests) provided, however, that nothing in this paragraph (d) shall be deemed to prevent:

(1) Any artist, artisan or craftsman from pursuing his artistic calling if such artist, artisan or craftsman also uses such private area for residential purposes, is self-employed and has no employees working in such private area and does not advertise or offer any product or work of art for sale to the public upon or from such private area.

(2) The leasing of any lot from time to time by the owner thereof, subject, however, to all of the provisions of the Settler's Bay Village Restrictions.

(e) Each private area and any and all improvements from time to time located thereon, shall be maintained by the owner thereof in good condition and repair.

(f) No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become, a nuisance or cause unreasonable embarrassment, disturbance or annoyance to other owners in the enjoyment of their lots. No repair or restoration of any motor vehicle, boat, trailer, aircraft or other vehicle shall be permitted on any portion of any lot except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility.

(g) No domestic animals or fowl other than a reasonable number of generally recognized house or yard pets shall be maintained on any private area. None of the animals shall be permitted to run at large.

(h) No sign or billboard, including but without limitation, commercial, political and similar signs shall be erected, posted, painted or displayed upon any private area, except:

(1) Such signs as may be required by legal proceedings.

(2) Residential identification signs of a combined total face area of three (3) square feet or less for each residence.

(3) During the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors or subcontractors.

(4) Signs advertising the property for sale.

(i) No house trailer, mobile home, permanent tent, or similar facility or structure shall be placed on any lot except to serve as a single family dwelling during the construction of a permanent home, and said house trailer, mobile home, permanent tent or similar facility or structure is to be removed upon completion of the permanent dwelling. In no event shall said house trailer, mobile home, permanent tent or similar facility or structure or succession of such structures remain on any lot for more than twelve (12) months.

(j) No accessory structures or buildings shall be constructed, placed or maintained upon any private area prior to the construction of the main structure of the residence; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with, the construction of the main structure of the residence.

(k) The owner shall not be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared to provide for construction and trees may be thinned so long as the natural beauty and aesthetic value of the natural foliage is retained.

(l) All garbage and trash shall be placed and kept in covered containers and shall not be permitted to remain upon any private area for any period of time in excess of that normally required for regular garbage disposal.

(m) There shall be no exterior fires whatsoever except barbeque fires contained within receptacles therefor.

Section 3. General and Strip Commercial Business District. Lot Thirty-five (35), Block One (1), Lots One (1), Two (2), and Lots Twenty-six through Forty-seven (26-47) of Block Two (2), Unit One (1). Lots One through Four (1-4) and Lots Twenty-One through Twenty-eight (21-28) of Block Three (3), Unit One (1). Lots Six through Seventeen (6-17) of Block Four (4), Unit One (1). Lots of this classification are intended specifically for those areas surrounding intersections where personal services, conveniences, goods and auto related service facilities are desirable and appropriate land uses. Lots of this classification are subject to the following:

(a) Any lot used or designated for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted. "Excessive" is defined for these purposes as a

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degree exceeding that generated by uses permitted in the district in their customary manner of operation or to a degree injurious to the public health, safety, welfare or convenience.

(b) Buildings shall be set back a minimum of twenty-five (25) feet from front lot lines and twenty (20) feet from rear lot lines and a minimum of ten (10) feet from side lot lines, except that corner lots shall have building set-back of fifteen (15) feet from the street side lot line.

(c) No house trailer, mobile home or similar facility or structure shall be placed on any lot except to serve as a retail display which would be required in the normal operation of an established business. In no event shall said house trailer, mobile home or similar facility or structure be used as a private residence.

Section 4. Compliance with Government Requirements. Nothing contained herein shall relieve the Owner of the obligation to comply with applicable government requirements now or hereafter in effect.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Each single family residence to be constructed in Block Six (6), Lots One through Twenty-six (1-26) in Block Seven (7), Block Sixteen (16) and Block Twenty-six (26) of Unit Two (2), Settler's Bay Village shall contain a minimum of 1,400 square feet of living area. Each single family residence to be constructed in Block One (1), Block Two (2), Block Three (3) and Block Four (4) of Unit One (1), and Lots Twenty-seven through Sixty-nine (27-69) in Block Seven (7), Block Eight through Fifteen (8-15), and Block Seventeen through Twenty-five (17-25) of Unit Two (2) Settler's Bay Village shall contain a minimum of 1,000 square feet of living area. A garage either attached to or detached from the main structure of the residence is not to be construed as living area.

Section 2. No building, fence, wall 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 natural kind, shape, height, materials and locations 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 ARCHITECTURAL CONTROL COMMITTEE which is composed of three (3) or more representatives appointed by Settler's Bay Properties, Inc. At any time the then record owners of seventy-five percent (75%) of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. In the event said committee fails to approve or disapprove such design and location within twenty (20) days after said plans and specifications have been submitted to it, this article will be deemed to have been fully complied with.

Section 3. No building shall be erected, placed or altered on any lot, part or portion of the property without the installation of a permanent foundation. All

construction plans, specifications and dwellings will be required to meet standard FHA building codes. One set of plans as finally approved shall be retained and maintained by the ARCHITECTURAL CONTROL COMMITTEE as a permanent record.

Section 4. If within the twenty (20) day period referred to in Section 2, the members of the ARCHITECTURAL CONTROL COMMITTEE, in their sole discretion, unanimously find that the proposed work would, for any reason whatsoever be incompatible with Settler's Bay Village, then the committee shall not approve the plans, drawings and specifications submitted to it and shall so notify the owner concerned in writing setting forth the reasons for such disapproval.

Section 5. The ARCHITECTURAL CONTROL COMMITTEE shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the ARCHITECTURAL CONTROL COMMITTEE unless the unanimous decision of its members is otherwise required by the Settler's Bay Village Restrictions.

Section 6. The ARCHITECTURAL CONTROL COMMITTEE may, from time to time and in its sole discretion, adopt, amend and repeal by unanimous vote, rules and regulations, including a fee for its costs, to be known as "ARCHITECTURAL CONTROL COMMITTEE RULES," which, among other things, interpret or implement the provisions of Article V, Sections Two (2) and Three (3). A copy of the ARCHITECTURAL CONTROL COMMITTEE RULES, as they may from time to time be adopted, amended or repealed, certified by any member of the ARCHITECTURAL CONTROL COMMITTEE, shall be recorded and shall thereupon have the same force as if it were a part of the Settler's Bay Village Restrictions.

Section 7. Neither the ARCHITECTURAL CONTROL COMMITTEE nor any member thereof shall be liable to any owner or project committee for any damage, loss or prejudice suffered or claimed on account of (a) the approval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development or manner of development of any property within Settler's Bay Village; provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 1. Noise Control. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises in the neighborhood shall not be operated within the subdivision. The operation of motorcycles and/or motorbikes except as transportation to and from a place of residence shall not be permitted. Snowmobiles on any paths, trails or roads within the subdivision shall not be permitted except where designated and approved for such use.

Section 2. Recreation Trails. The perimeter of the subdivision designated as a pedestrian easement on the recorded plat map(s) is dedicated to the building and use of cross country ski trails and hiking trails and shall not be used for any other than recreational purposes.

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Section 3. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions of this Declaration. The failure to enforce the 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 effect any other provision which shall remain in full force and effect.

Section 5. Amendments. These Covenants, Conditions and Restrictions may be amended, modified or revoked in any respect from time to time by Declarant prior to the time of the first conveyance of a Common Area to the Owners Association. Subsequent to that time, the Covenants, Conditions and Restrictions may be amended, modified or revoked by a vote of the members of the Association who own seventy-five percent (75%) of the Lots in the project.

Section 6. Phased Development. It is contemplated that the construction and development of SETTLER'S BAY SUBDIVISION may occur in phases; however, no assurances are made or given that all the phases will be undertaken or completed or, if they are undertaken and completed, when such completion will occur.

Accordingly, any time after seventy-five percent (75%) of the lots in Units One (1) and Two (2) of Settler's Bay Subdivision have been conveyed to Owners, said Owners may call for a special meeting to nominate and elect new directors and to manage the affairs of the Association as provided in the By-Laws; provided, however, that no actions may be taken or resolutions adopted which in any way would or could (1) preclude an Owner of a lot in subsequent phases of development from becoming a member concurrent with their becoming lot owners as herein contemplated; or (2) interfere with or restrain Declarant from completing the remaining phases, including the right of Declarant to make changes of whatever nature in any subsequent phase.

Section 7. Conveyance of Common Areas. Declarant, at any time and from time to time may, at its sole discretion and option, but upon such terms and conditions as may be agreed upon with the Association, sell, convey and transfer all or any portion of the Common Areas to the Association; provided, however, that the Association must accept the tender of such conveyance and the real property described therein and accept the same as part of the Common Area if such tender is offered and made free and clear of liens and encumbrances.

IN WITNESS WHEREOF, SETTLER'S BAY PROPERTIES, INC. has caused this Restatement to be signed by its duly authorized officer this 13th day of December 1982.

SETTLER'S BAY PROPERTIES, INC.

By Richard Romer
Richard Romer, General Manager

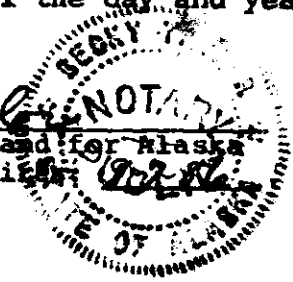
BOOK 285 PAGE 950

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 13th day of December 1982, before me the undersigned, a Notary Public in and for Alaska, personally appeared Richard Romer, known to me and to me known to be the General Manager of the corporation named in the forgoing instrument, and he acknowledged to me that he had, in his official capacity aforesaid, executed the foregoing instrument as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the day and year in this certificate first above written.

Secky Taylor
Notary Public in and for Alaska
My commission expires: 12/31/84



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4100

RECORDED - FILED
PALMER REG.
DISTRICT

Dec 13 12 29 PM '82

REQUESTED BY Settlers Bay
ADDRESS Box 1080
Wasilla, Ak.

173451

94687

AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS AMENDMENT AND RESTATEMENT, made this 15 day of October, 1996, by **Trillium Corporation**, as successor to Settler's Bay Properties, Inc., an Alaska corporation, hereinafter referred to as "Declarant,"

W I T N E S S E T H:

WHEREAS, Declarant is the owners of certain real property located in the Palmer Recording District, Third Judicial District, State of Alaska, more particularly described as:

SETTLER'S BAY SUBDIVISION, UNIT NO. 1, according to the official plat thereof filed under **Plat no. 75-61**, books and records of the **Palmer** Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, UNIT NO. 2, according to the official plat thereof filed under **Plat no. 77-17**, books and records of the **Palmer** Recording District, Third Judicial District, State of Alaska;

SETTLER'S BAY SUBDIVISION, UNIT NO. 2, according to the official plat thereof filed under **Plat no. 77-18**, books and records of the **Palmer** Recording District, Third Judicial District, State of Alaska;

and,

WHEREAS, in Article VII, Section 5 of the Amended Declaration of Covenants, Conditions and Restrictions made on the 13th day of May 1981, and recorded in Book 233, at Page 455, of the Palmer Recording District, Third Judicial District, State of Alaska, the Declarant reserved the right to subsequently amend the Covenants, Conditions and Restrictions; and

WHEREAS, Trillium Corporation has succeeded to the interest of Settler's Bay Properties, Inc. by purchase of its interest in the above described real property; and

WHEREAS, Declarant wishes to amend Article V, Section 2. (d) and Article IV, Section 6. to clarify residential use and so that assessments will conform to current practice; and

WHEREAS, Declarant wished to amend and restate the Restated Declaration of Covenants, Conditions and Restrictions made the 13th day of December, 1982, and recorded in Book 285, Page 939, Palmer Recording District, Third Judicial District, State of Alaska, so that this Amended and Restated Declaration of Covenants, Conditions and Restrictions will contain all pertinent provisions of both documents for ease of reference and interpretation.

NOW, THEREFORE, Declarant hereby amends the past Restated Declaration of Covenants, Conditions and Restrictions and declares that this Amendment and Restatement contains, in integrated form, those provisions set forth in the above-referenced documents:

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Settler's Bay Owners Association, its successors and assigns.

AFTER RECORDING
RETURN TO:

Law Offices of
Gordon F. Schadt
P.O. Box 112809
Anchorage, Alaska 99511
(907) 522-2622

Section 2. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owner" shall further include one (1) or more persons or entities who are purchasing pursuant to an installment or land sales contract and who will not be entitled to receive fee simple title of record until they have performed the terms of said installment or land sales contract (hereinafter referred to as "land sale contract" and/or "land sale contract purchaser").

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association by the development of latter phrases of the Settler's Bay Subdivision.

Declarant shall have the right to include additional property in the future from time to time within the scope and purview of these Covenants, Conditions and Restrictions, as the same may be amended from time to time, and subject such additions to the jurisdiction and authority of the Association, which responsibility and obligation the Association hereby accepts. Said additional property and the Owners thereof shall be subject to these Covenants, Conditions and Restrictions as if originally included therein, and shall, among other things, pay and satisfy the fees and assessments herein set forth and otherwise abide by and perform the same.

Section 4. "Common Area" shall mean all real property now or hereafter owned by the Association for the common use and enjoyment of the Owners, whether or not said real property is actually owned by the Association; the criteria being that its use will benefit the Owners in common and will be available for the use of all Owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area and other tracted land.

Section 6. "Declarant" shall mean and refer to Trillium Corporation, as successor to Settler's Bay Properties, Inc., an Alaska corporation, and its successors and assigns if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to promulgate and enforce reasonable rules and regulations for the use of such facilities;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owners for any period during which any assessment against his Lot remains unpaid, and for a period not to

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exceed sixty (60) days for any infraction of its published rules and regulations; and

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to regulations and assessment by the Association shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from the ownership of a Lot.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, and each Owner who is purchasing pursuant to a land sales contract, shall be deemed to covenant and agree to pay to the Association (i) annual assessments or charges; and, (ii) special assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due. Such personal obligations shall not pass to his successors in title unless expressly assumed by them.

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Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment and welfare of the Owners of the Properties, and for the improvement and maintenance of property, services and facilities devoted to such purpose.

Section 3. Maximum Annual Assessment. Until January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors shall be One Hundred Fifty and 00/100 Dollars (\$150.00) per Lot.

(a) From and after January 1, 1983, the maximum annual assessment which may be levied by the Board of Directors without a vote of the membership shall be adjusted in relation to the Consumer Price Index for the Municipality of Anchorage, Alaska, issued by the Bureau of Labor Statistics of the United States Department of Labor, hereinafter referred to as the "price index figure"; provided, however, that in no event shall the maximum annual assessment be reduced to an amount less than One Hundred Fifty and 00/100 Dollars (\$150.00) per Lot. The adjustment in the maximum annual assessment shall be determined as follows:

The price index figure for October 1980, the price index figure for October of the year immediately preceding the year for which such adjustment is to be made and the sum of One Hundred Fifty and 00/100 Dollars (\$150.00) shall be the basis upon which such adjustment shall be computed. The difference, if any, between the price index figure for October 1980, and the price index figure for October of the year immediately preceding the year for which such adjustment is to be made shall be ascertained by subtracting the lesser from the greater of such figures. Thereafter, such difference shall be divided by the price index figure for October 1980, which will provide the percentage of change, if any, in the price index figure. If such percentage of change represents an increase, then the maximum annual assessment for the following assessment year shall be One Hundred Fifty and 00/100 Dollars (\$150.00), plus the sum derived by multiplying the sum of One Hundred Fifty and 00/100 Dollars (\$150.00) by such percentage of change.

In the event the Consumer Price Index issued by the United States Department of Labor be discontinued, or if there is a substantial change in the method of determining the price index figure from the base month of October 1980, any other appropriate and suitable governmental index shall be used provided it offers a comparison between a period reasonably close to October 1980 and the subsequent month being measured.

(b) From and after January 1, 1983, the maximum annual assessment may be increased above the amount otherwise allowable under "a" above to a stated maximum amount, applicable to that year only, by an affirmative vote of two-thirds (2/3) of each class of members who are voting on such resolution, in person or by proxy, at a meeting duly called for this purpose. This provision shall not apply to a pro rate assessment of the cost of road maintenance following the failure of

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a majority of the qualified residents of the subdivision to vote in favor of the establishment of a service area for the purpose in an election held by the Matanuska-Susitna Borough.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting, in person or by proxy, at a meeting duly called for that purpose. The Board of Directors may provide for the payment of such special assessment on a monthly basis.

Section 5. Notice and Quorum for Action Authorized Under Section 3. Written notice of any membership meeting called for the purpose of taking any action authorized under Section 3 hereinabove shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of both classes of membership shall constitute a quorum. If called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, except that unimproved Lots shall be assessed at a rate of one-fifth (1/5) the normal rate.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the recording of the Amended Declaration of Covenants, Conditions and Restrictions. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall thereafter fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, which may also provide for the payment of such assessment on a monthly basis. The Association shall, upon demand and for a reasonable charge, furnish to any Owner liable for an assessment a certificate, signed by an officer of the Association, setting forth whether the assessments on the property owned by such Owner have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date, as established by the Board of Directors, shall bear interest from the due date at the highest rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment

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lien; provided, however, the sale or transfer of any Lot pursuant to a foreclosure or other proceeding in lieu thereof, of any first mortgage or deed of trust shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, but not as to any assessments thereafter becoming due.

ARTICLE V

LAND CLASSIFICATION USE AND RESTRICTIVE COVENANTS

Section 1. All land within Settler's Bay Village has been classified by permitted uses. The permitted uses and setbacks for each permitted use classification are therein provided.

Section 2. Single Family Residential. Lots One through thirty-four (1-34) of Block One (1), Unit One (1) and Lots Three through Twenty-five (3-25) of Block Two (2), Unit One (1), and Lots Five through Twenty (5-20) and Lots Twenty-nine through Thirty-nine (29-39) of Block Three (3), Unit One (1), and Lots One through Five (1-5) of Block Four (4), Unit One (1), and Block Six (6), Block Seven (7), Block Eight (8), Block Nine (9) and Lots One through Twenty-six (1-26) and Lots Thirty-two through Fifty-one (32-51) of Block Eleven (11), and Lots One through Eighteen (1-18) of Block Twelve (12) and Blocks Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), and Lots One through Thirty-one (1-31) of Block Twenty-three (23), Block Twenty-three A (23 A), Block Twenty-four (24), Block Twenty-four A (24 A), Block Twenty-five (25) and Block Twenty-six (26), all in Unit Two (2), Settler's Bay Village. Lots of this classification shall be used for single family homes, including accessory buildings; subject, however, to all of the following limitations and restrictions:

(a) No building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than twenty (20) feet to the rear lot lines, except that corner lots shall have a building set-back of fifteen (15) feet from the street side lot line.

(b) An accessory building is defined as a detached subordinate building, the use of which is customarily incidental to that of the main buildings, such as private garage or garden tool storage shed.

(c) No improvement, excavation or other work which in any way alters any private area from its natural or improved state as existing on the date such private area was first conveyed in fee by grantor to an owner shall be made or done except upon strict compliance with and within the restrictions of, the provisions of Article VI.

(d) The private area of each lot shall be used exclusively for single family residential purposes (including its servants and non-paying transient guests) provided, however, that nothing in this paragraph (d) shall be deemed to prevent:

(1) Any artist, artisan or craftsman from pursuing his artistic calling if such artist, artisan or craftsman also uses such private area for residential purposes, is self-employed and has no employees working in such private area and does not advertise or offer any product or work of art for sale to the public upon or from such private area.

(2) The leasing of any lot from time to time by the owner thereof, subject, however, to all of the provisions of the Settler's Bay Village Restrictions.

(e) Each private area and any and all improvements from time to time located thereon, shall be maintained by the owner thereof in good condition and repair.

(f) No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become, a nuisance of cause unreasonable embarrassment, disturbance or annoyance to other owners in the enjoyment of their lots. No repair or restoration of any motor vehicle, boat, trailer, aircraft or other vehicle shall be permitted on any portion of any lot except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility.

(g) No domestic animals or fowl other than a reasonable number of generally recognized house or yard pets shall be maintained on any private area. None of the animals shall be permitted to run at large.

(h) No sign or billboard, including but without limitation, commercial, political and similar signs shall be erected, posted, painted or displayed upon any private areas, except:

(1) Such signs as may be required by legal proceedings.

(2) Residential identification signs of a combined total face area of three (3) square feet or less for each residence.

(3) During the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors or subcontractors.

(4) Signs advertising the property for sale.

(i) No house trailer, mobile home, permanent tent, or similar facility or structure shall be placed on any lot except to serve as a single family dwelling during the construction of a permanent home, and said house trailer, mobile home, permanent tent or similar facility or structure is to be removed upon completion of the permanent dwelling. In no event shall said house trailer, mobile home, permanent tent or similar facility or structure of succession of such structures remain on any lot for more than twelve (12) months.

(j) No accessory structures or buildings shall be constructed, placed or maintained upon any private area prior to the construction of the main structure of the residence; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with, the construction of the main structure of the residence.

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(k) The owner shall not be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared to provide for construction and trees may be thinned so long as the natural beauty and aesthetic value of the natural foliage is retained.

(l) All garbage and trash shall be placed and kept in covered containers and shall not be permitted to remain upon any private area for any period of time in excess of that normally required for regular garbage disposal.

(m) There shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefor.

Section 3. General and Strip Commercial Business District. Lot Thirty-five (35), Block One (1), Lots One (1), Two (2), and Lots Twenty-six through Forty-seven (26-47) of Block Two (2), Unit One (1). Lots One through Four (1-4) and Lots Twenty-one through Twenty-eight (21-28) of Block Three (3), Unit One (1). Lots Six through Seventeen (6-17) of Block Four (4), Unit One (1). Lots of this classification are intended specifically for those areas surrounding intersections where personal services, conveniences, goods and auto related service facilities are desirable and appropriate land uses. Lots of this classification are subject to the following:

(a) Any lot uses or designated for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted. "Excessive is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation or to a degree injurious to the public health, safety, welfare or convenience.

(b) Buildings shall be set back a minimum of twenty-five (25) feet from front lot lines and twenty (20) feet from rear lot lines and a minimum of ten (10) feet from side lot lines, except that corner lots shall have building set-back of fifteen (15) feet from the street side lot line.

(c) No house trailer, mobile home or similar facility or structure shall be placed on any lot except to serve as a retail display which would be required in the normal operation of an established business. In no event shall said house trailer, mobile home or similar facility or structure be used as a private residence.

Section 4. Compliance with Government Requirements. Nothing contained herein shall relieve the Owner of the obligation to comply with applicable government requirements now or hereafter in effect.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Each single family residence to be constructed in Block Six (6), Lots One through Twenty-six (1-26) in Block Seven (7), Block Sixteen (16) and Block Twenty-six (26) of Unit Two (2), Settler's Bay Village shall contain a minimum of 1,400 square feet of living area. Each single family residence to be constructed in Block One (1), Block Two (2), Block Three (3) and Block Four (4) of Unit One (1), and Lots Twenty-seven (27) through Sixty-nine (27-69) in Block Seven (7), Block Eight through Fifteen (8-15), and Block Seventeen through

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Twenty-five (17-25) of Unit Two (2) Settler's Bay Village shall contain a minimum of 1,000 square feet of living area. A garage either attached to or detached from the main structure of the residence is not to be construed as living area.

Section 2. No building, fence, wall 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 natural kind, shape, height, materials and locations 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 Architectural Control Committee which is composed of three (3) or more representatives appointed by Trillium Corporation, as successor to Settler's Bay Properties, Inc. At any time the then record owners of seventy-five percent (75%) of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. In the event said committee fails to approve or disapprove such design and location within twenty (20) days after said plans and specifications have been submitted to it, this article will be deemed to have been fully complied with.

Section 3. No building shall be erected, placed or altered on any lot, part or portion of the property without the installation of a permanent foundation. All construction plans, specifications and dwellings will be required to meet standard FHA building codes. One set of plans as finally approved shall be retained and maintained by the Architectural Control Committee as a permanent record.

Section 4. If within the twenty (20) day period referred to in Section 2, the members of the Architectural Control Committee, in their sole discretion, unanimously find that the proposed work would, for any reason whatsoever be incompatible with Settler's Bay Village, then the committee shall not approve the plans, drawings and specifications submitted to it and shall so notify the owner concerned in writing setting forth the reasons for such disapproval.

Section 5. The Architectural Control Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the Architectural Control Committee unless the unanimous decision of its members is otherwise required by the Settler's Bay Village Restrictions.

Section 6. The Architectural Control Committee may, from time to time and in its sole discretion, adopt, amend and repeal by unanimous vote, rules and regulations, including a fee for its costs, to be known as "Architectural Control Committee Rules," which, among other things, interpret or implement the provisions of Article V, Sections Two (2) and Three (3). A copy of the Architectural Committee Rules, as they may from time to time be adopted, amended or repealed, certified by any member of the Architectural Control Committee, shall be recorded and shall thereupon have the same force as if it were part of the Settler's Bay Village Restrictions.

Section 7. Neither the Architectural Control Committee nor any member thereof shall be liable to any owner or project committee for any damage, loss or prejudice suffered or claimed on account of (a) the approval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development or manner of development of any property within Settler's Bay Village; provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

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ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 1. Noise Control. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises in the neighborhood shall not be operated within the subdivision. The operation of motorcycles and/or motorbikes except as transportation to and from a place of residence shall not be permitted. Snowmobiles on any paths, trails or roads within the subdivision shall not be permitted except where designated and approved for such use.

Section 2. Recreation Trails. The perimeter of the subdivision designated as a pedestrian easement on the recorded plat map(s) is dedicated to the building and use of cross country ski trails and hiking trails and shall not be used for any other recreational purposes.

Section 3. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions of this Declaration. The failure to enforce the 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 effect any other provisions which shall remain in full force and effect.

Section 5. Amendments. These Covenants, Conditions and Restrictions may be amended, modified or revoked in any respect from time to time by Declarant prior to the time of the first conveyance of a Common Area to the Owners Association. Subsequent to that time, the Covenants, Conditions and Restrictions may be amended, modified or revoked by a vote of the members of the Association who own seventy-five percent (75%) of the Lots in the project.

Section 6. Phased Development. It is contemplated that the construction and development of Settler's Bay Subdivision may occur in phases; however, no assurances are made or given that all the phases will be undertaken or completed or, if they are undertaken and completed, when such completion will occur.

Accordingly, any time after seventy-five percent (75%) of the lots in Units One (1) and Two (2) of Settler's Bay Subdivision have been conveyed to Owners, said Owners may call for a special meeting to nominate and elect new directors and to manage the affairs of the Association as provided in the By-Laws; provided, however, that no actions may be taken or resolutions adopted which in any way would or could (1) preclude an Owner of a lot in subsequent phases of development from becoming a member concurrent with their becoming lot owners as herein contemplated; or (2) interfere with or restrain Declarant from completing the remaining phases, including the right of Declarant to make changes of whatever nature in any subsequent phase.

Section 7. Conveyance of Common Areas. Declarant, at any time and from time to time may, at its sole discretion and option, but upon such terms and conditions as may be agreed upon with the Association, sell, convey and transfer all or any portion of the Common Areas to the Association; provided, however, that the Association must accept the tender of such conveyance and the real property described therein and accept the same as part of the Common Area if such tender is offered and made free and clear of liens and encumbrances.

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IN WITNESS WHEREOF, TRILLIUM CORPORATION, as successor to Settler's Bay Properties, Inc. has caused this Amendment and Restatement to be signed by its duly authorized officer this 15 day of October, 1996.

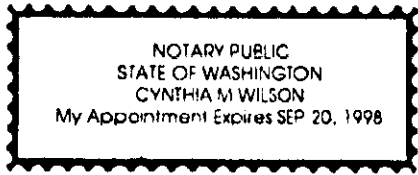
TRILLIUM CORPORATION, as successor to Settler's Bay Properties, Inc.

By: [Signature]
Its: [Signature]

STATE OF WASHINGTON)
County of Whatcom) ss.

THIS IS TO CERTIFY that on this 15 day of October, 1996, before me, the undersigned, a Notary Public in and for Washington, personally appeared [Signature], to me known and known to me to be the President of the corporation named in the foregoing instrument, and he acknowledged to me that he had, in his official capacity aforesaid, executed the foregoing instrument as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the day and year in this certificate first above written.



[Signature]
NOTARY PUBLIC in and for Washington
My Commission Expires: 9-20-98

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PALMER REC. DISTRICT
REQUESTED BY Gordon F Schadt

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AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SETTLER'S BAY SUBDIVISION

This Amended and Restated Declaration of Covenants, Conditions and Restrictions (Declaration) for Settler's Bay Subdivision ("Settler's Bay") is made by SETTLER'S BAY DEVELOPMENT COMPANY, INC., hereinafter referred to as Declarant.

WITNESSETH:

WHEREAS, Declarant is an owner of certain real property located in the Palmer Recording District, Third Judicial District, State of Alaska; and

WHEREAS, in Article VII, Section 5 of the Amended Declaration of Covenants, Conditions and Restrictions made on October 15, 1996 and records in Book 0870 at Page 814 to 825, in the records of the Palmer Recording District, Third Judicial District, State of Alaska, the Declarant reserves the right to subsequently amended the Covenants, Conditions and Restrictions; and

WHEREAS, Declarant desires to amend, restate, and modernize the Covenants, Conditions and Restrictions for the Settler's Bay Subdivision.

NOW, THEREFORE, the Declarant hereby declares that all of said property is hereby made and shall hereafter be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, reservations, liens, charges, and uses hereinafter set forth, and that the Original Declaration and any Amended Declaration prior to the date hereof is released and terminated in full. Effective as of the recording date hereof, said covenants, conditions, restrictions, reservations, liens, charges and uses shall run with the real property described in Exhibit A attached hereto, shall be binding upon all parties having and/or acquiring any right, title or interest in the said real property or in any part thereof, and shall inure to the benefit of each and every person or entity from time to time owning or holding an interest in said real property.

ARTICLE I

DEFINITIONS

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

A. Articles and By-Laws shall mean and refer to the Articles of Incorporation and the By-Laws of the Association as they may exist from time to time.

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BUZ HOFFMAN
P.O. BOX 877534
WASILLA, AK. 99687

B. Association shall mean and refer to Settler's Bay Owner's Association, Inc. an Alaskan non-profit corporation, its successors and assigns, and it shall be a homeowners association.

C. Board shall mean the Board of Directors of the Association.

D. Common Expenses shall mean and refer to expenditures for maintenance, operation and other services required or authorized to be performed by the Association with respect to Common Property, Parks, Open Spaces, or Public Areas.

E. Common Property or Common Area shall mean and refer to all real property, together with any improvements thereon, which are actually and specifically dedicated, deeded or leased to the Association and designated in said dedication, deed or lease as Common Property. The term Common Property shall also include any personal property acquired by the Association if said property is designated as Common Property in the bill of sale or instrument transferring such property. Common Property is specifically reserved for the use and benefit of members, and is an integral appurtenant part of each Lot and Residential Unit. As of the date of these declarations there is no Common Property.

F. Declarant shall mean SETTLER'S BAY DEVELOPMENT COMPANY, INC. Wherever the term Declarant is used in the Declaration, the Articles or By- Laws of the Association, it shall always be deemed to include Declarant's successors and assigns.

G. Declaration shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Settler's Bay and includes the same as it may, from time to time, be amended.

H. Architectural Control Committee or ACC shall refer to the committee established by the Board of Directors and described in Article VII hereof.

I. Driveway shall mean and refer to the paved or concrete surface on a Lot running from the garage portion of the Residential Unit or multi family unit to the street providing access to such Residential Unit, which Driveways are a part of the Lot and are to be maintained at the Lot Owner's expense.

J. Eligible Insurer or Guarantor shall mean and refer to an insurer or governmental guarantor who has requested notice from the Association of those matters which such insurer or guarantor is entitled to notice of by reason of this Declaration or the by-law's.

K. Eligible Deed of Trust Beneficiary shall mean and refer to a beneficiary of a first Deed of Trust on a Residential Unit who has requested notice from the Association of those matters which such holder is entitled to notice of by reason of this Declaration or the By-Laws.

L. Lot shall mean any parcel of land, but excluding tracts, shown upon any recorded subdivision map or plat of the Properties. Owners of tracted land not a part of Exhibit A must



petition the Association should such owners desire to become members of the Association.

M. Member shall mean and refer to all those Owners who are Members of the Association, as provided in Article III hereof.

N. Notice shall mean delivery of any document by U.S. mail with postage prepaid, to the last known address according to the records of the Association of the person or entity who appears as Owner in the records of the Association. Notice to one of two or more co-Owners shall constitute notice to all Owners.

O. Open Space shall mean an out-of-doors open area from the ground upward devoid of residential and commercial buildings, accessory structures and impervious areas and intended by these covenants to remain as such.

P. Owner shall mean and refer to the owner as shown by the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities) of fee simple title to any Residential Unit or Lot located within the Properties. Owner shall not mean or refer to the holder of a deed of trust, its successors or assigns, unless and until such holder 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. Owner shall also include one (1) or more persons or entities who are purchasing pursuant to an installment or land sales contract and who will not be entitled to receive fee simple title of record until they have performed the terms of said installment or land sale contract (hereafter referred to as "land sale contract" and/or "land sale contract purchaser").

Q. Parks shall mean lands within the Properties, title to which is held by the Association, dedicated by an instrument recorded in the real property records of the Palmer Recording District, Third Judicial District, State of Alaska, as park land to be used for recreational purposes exclusively by the Members, their guest and invitees, which lands shall also be designated as Common Property.

R. Properties shall mean and include the real property described in Exhibit A attached hereto, together with other real property added thereto in accordance with this Declaration.

S. Residential Unit shall mean an approved structure situated on a platted Lot intended for use as a dwelling located within the Properties. For the purposes of this Declaration, any such dwelling shall not be deemed to be approved until a certificate of occupancy therefor, if required, has been issued by the Design Review Committee.

T. Turnover shall mean the transfer of operation of the Subdivision to the Association by the Declarant as described in Article IX hereof.

U. Voting Member shall mean Lot Owners. All vote allocations are as provided in Article III, Section 2, hereof.



V. Settler's Bay shall mean a subdivision in the Palmer Recording District, Third Judicial District, State of Alaska, according to the maps or plats thereof recorded as described in Exhibit "A".

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

Section 1. Declaration. The real property subject to this Declaration is described in Exhibit A attached hereto and made a part hereof. Additional real property (including Common Property) out of, adjacent to or in the immediate vicinity of Settler's Bay may be added to the Properties by an amendment to this Declaration which includes the description of such additional real estate, and which submits the additional lands to the provisions of this Declaration. Any such amendment shall be executed by the Declarant and the Owner of the property constituting the additional real property to be added to the Properties without requiring the joinder or consent of any other Owner, other person or entity (except as may be otherwise required by the Articles of Incorporation of the Association) prior to the Turnover date and, in place of the Declarant, by the President of the Board pursuant to a duly taken resolution of the Board of Directors after the Turnover date. The amendment, when recorded in the Real Property Records of Palmer Recording District, Third Judicial District, State of Alaska, shall bring the additional property under the provisions of this Declaration.

ARTICLE III

ASSOCIATION

Section 1. Membership. Every Owner, including the Declarant, shall be a Member of the Association, and by acceptance of a deed or other instrument evidencing ownership acknowledges the authority of the Board and the Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association. In addition to the foregoing, the family guests, invitees and tenants of the Owners shall, while in or on the Properties, shall abide and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association. Membership shall be appurtenant to and may not be separated from ownership of the Lot.

Section 2. Voting Rights.

A. The Association shall have one (1) class of voting membership. Owners shall have one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot all such persons shall be members. The vote for such Lot shall be exercised as they, among

themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.



B. When any property entitling the Owner to membership in 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 fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, such Owner shall select one official representative to qualify for voting in the Association and shall notify the Secretary in writing of the name of such individual. The vote of each individual shall be considered to represent the will of all the Owners of that property. In the circumstances of such common ownership, if the Owners fail to designate their voting representative, the Association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by any of the other Owners. Upon such notification none of such Owners may vote with respect to the jointly held property until all of such Owners appoint their representative pursuant to this paragraph.

C. In order to vote, an owner's dues must be current and not past due after June 30 of the relevant year.

D. For purposes of determining voting rights hereunder the membership roster shall be set and the record date established as of fifteen (15) days prior to each meeting of Members.

E. The cumulative system of voting shall not be allowed.

Section 3. Change of Membership. Change of Membership in the Association shall be established by recording in the Real Property Records of Palmer Recording District, Third Judicial District, State of Alaska, a deed or other instrument conveying record fee title to any Lot, and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior Owner shall be terminated. The Owner shall be liable for accrued and unpaid fees and assessments attributable to the Lot acquired. The interest, if any, of a Member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's real property. Membership in the Association by all Owners shall be compulsory and shall continue, as to each Owner, until such time as such Owner of record transfers or conveys his interest in the real property upon which his membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall be appurtenant to, run with, and shall not be separated from, the real property interest upon which membership is based.

ARTICLE IV

FUNCTIONS OF ASSOCIATION



Section 1. Functions. The Association, through its Board of Directors, unless such function is specifically delegated to the Owners, shall have the power to perform the following functions:

A. The Association shall provide maintenance of all Parks, Open Space, Common Property and Recreation Areas, where deterioration of any of the described items would adversely affect the appearance of the Properties or the operation of systems appurtenant to Settler's Bay.

B. The Association shall provide maintenance of any real property located within Settler's Bay upon which the Association has accepted an easement for said maintenance.

C. The Association shall have the power to take any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions of services delegated to the Association in any covenants, conditions or restrictions applicable to the Properties or in the Articles or By-Laws.

D. The Association shall have the power to conduct the business of the Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing Members of activities, Notice of Meetings and other important events. The Association shall have the right to enter into management agreements with companies, whether affiliated with the Declarant, or not, in order to provide its services, and perform its functions.

E. The Association shall purchase general liability and hazard insurance covering improvements and activities on the Common Property, if any, at a current replacement cost basis, as the Board deems necessary. The Association may additionally cause all officers or employees having fiscal responsibility to be bonded.

F. The Association shall establish and operate the Design Review Committee as hereinafter defined.

G. The Association may adopt, publish and enforce such Rules and Regulations as the Board deems necessary.

H. The Association may construct improvements on Common Property and easements as may be required to provide the services as authorized in Section 1 of this Article.

I. The Association may establish use fees and promulgate rules and regulations respecting the use of Common Property and Association facilities by Members and persons other than Members.

J. The Association may carry out any of the functions and services specified in Section 1 of this Article to the extent such maintenance and services can be provided with the proceeds from annual assessments and, if necessary and appropriate, from special assessments. The functions and services allowed in Section 1 of this Article to be carried out or offered by the Association at any particular time shall be determined by the Board taking into consideration proceeds of assessments and the needs of the Association. Subject to the provisions of Article III, Section 4 hereof, the functions and services which the Association is authorized to carry out or

Amended and Restated Declaration of Covenants, Conditions and Restrictions

Page 6



provide, may be added to or reduced at any time upon the affirmative vote of a majority of the Board. The Association may provide the permitted services by contract with third parties, including agreements with applicable governmental agencies.

Section 2. Conveyance to Association. The Association shall be obligated to accept any and all conveyance to it by Declarant of fee simple title, Open Space, Parks, Surface Waters Management Systems or Common Property.

ARTICLE V

EASEMENTS

Section 1. Declarant Easements. The Declarant hereby reserves to itself, its successors and assigns, and to such other persons as Declarant may from time to time designate in writing, a perpetual easement, privilege and right in and to, over, under, on and across the Common Property for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees; provided, however, that such access and use does not unnecessarily interfere with the reasonable use and enjoyment of these properties and facilities by the Owners. Declarant reserves the right to impose further restrictions and to grant or dedicate to itself or others additional easements and rights-of-way on any of the Properties owned by Declarant.

Section 2. Extent of Easements. The rights and easements of enjoyment created in this Article V shall be subject to the following:

A. The right of the Declarant or the Association, in accordance with its By-Laws, to borrow money from any lender for the purpose of improving and/or maintaining the Parks, Open Space, and Common Property and providing services authorized herein and, in aid thereof, and subject to Article IV, Section 2, to mortgage said properties;

B. The right of the Association to suspend the rights and easements of enjoyment of any Member or any tenant of any Member for any period during which any assessment remains unpaid, and for any period, not to exceed sixty (60) days, for an infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Members obligation to pay the assessment.

C. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility that may be situated on or in the Common Property.

D. The right of the Association to give, dedicate, encumber or sell all or any part of the Common Property (including leasehold interests therein) to any public agency, authority or utility or private concern for such purposes, subject to the Owners perpetual non-exclusive easement for ingress and egress set forth in Article V, Section 1 and subject to Article IV, Section 2 and such conditions as may be determined by the Association. No such gift, dedication or encumbrance, or sale shall be effective unless approved by seventy-five percent (75%) of all Members agreeing to such a transaction has been recorded.

E. Any Owner may delegate, to the members of his family, his tenants or his contract



purchasers in accordance with the By-Law of the Association, his right of enjoyment to the Common Areas and facilities. Such delegation is only permissible to the extent said delegatee resides on the property and only in accordance with the By-Laws of the Association. Owners shall be held liable for any damage in Common Areas and Association owned facilities caused by delegates.

ARTICLE VI ASSESSMENTS

Section 1. Covenant to Pay Assessment. The Declarant covenants, and each Owner of any Residential Unit or Lot shall by acceptance of a deed therefor, regardless of whether 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 the Association: (1) annual assessments, (2) special assessments and (3) individual assessments, all fixed, established and collected from time to time as hereinafter provided. Each such assessment, together with such interest thereon as may be provided for herein and costs of collection, shall also be the personal obligation of the person who was the Owner of such real property at the time when the assessment first became due and payable. Each such assessment, together with such interest thereon as may be provided for herein and costs of collection shall be a continuing lien upon the property against which each such assessment was made. The liability for assessments may not be avoided by waiver of (1) voting rights, or (2) the use or enjoyment of any Common Property, or (3) by the abandonment of the property against which the assessment was made. In the case of co-ownership of a Residential Unit or Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively for the improvements, maintenance, enhancement and operation of the Parks, Open Space, and Common Property and to provide services which the Association is authorized or required to provide including, but not limited to, the payment of taxes and insurance, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions, including the costs of the ACC, and for the payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions. The Association may establish reasonably necessary reserve funds to be held in reserve for: (a) major rehabilitation or major repairs to Common Property that must be replaced on a periodic basis; (b) emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss; and (c) insurance premiums or taxes.

Section 3. Special Assessments. In addition to the annual assessments authorized by Section 2 of this Article, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the costs of any acquisition, construction or reconstruction, repair or replacement of a described capital improvement upon Common Property or easements, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Members at a meeting duly called for that purpose. The Board of Directors may provide for the payment of such special assessments on a monthly basis.



Section 4. Individual Assessments. The Association may impose an individual assessment upon any Owner whose use or treatment of Common Areas, Residential Unit or Lot is not in conformance with the standards as adopted by the Association or which increases the maintenance cost to the Association above that which would result from compliance by the Owner with the use restrictions imposed by this Declaration.

Section 5. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall be due and payable in full on or before the 1st day of July after notice of an assessment is sent by the Board to the Owners. The Board, pursuant to the By-Laws, shall determine any changes in the due date or the date of the commencement of the annual assessments.

Section 6. Due Date of Special and Individual Assessments. Except as otherwise expressly provided herein, the due date of any special or individual assessment under Sections 3 and 4 of this Article, respectively shall be fixed in the resolution authorizing such assessment.

Section 7. Determination of Annual Assessments. Each year the Board shall prepare a budget. Within thirty (30) days after adoption of a proposed budget, the Board shall provide a summary of the budget to each Member, and shall set a date for a meeting of the Members to consider ratification of the budget not less than fourteen (14), nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Members reject the budget, the budget is ratified whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Members continues until the Members ratify a budget proposed by the Board. Each year, after proposing the budget, the Board shall determine the total annual assessment for the Properties, taking into consideration, among other things, the then current maintenance costs, estimated increases in maintenance costs and future needs of the Association. Except as provided in Section 10 herein, annual assessments shall be allocated equally among all Lots. Written notice of any meeting of the Board at which the Board shall consider determination of the annual assessment or any special assessment shall be sent to all voting Members not less than thirty (30) days nor more than sixty (60) days in advance of the Board meeting. At the first such meeting called, if the required quorum is not present, another meeting of the Board may be called, subject to the same notice requirements; and if the required membership quorum is not present at such subsequent meeting, the Board shall be authorized to determine the total annual assessments or any special assessments without obtaining the approval required, if any, of the Members.

Section 8. Duties of the Board of Directors. The Board shall prepare a roster of Owners, the Lots and the Residential Units owned by each and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, at any time, furnish to any Owner liable for any assessment a certificate in writing, signed by an officer of the Association, setting forth whether such assessment has been paid. Such certificate shall be prime facie evidence of payment of any assessment therein stated to have been paid.

Section 9. Allocation of Assessments. The total annual assessment and special assessment set by the Board for the Properties (exclusive of the individual assessments provided for in Amended and Restated Declaration of Covenants, Conditions and Restrictions



Section 4) shall be divided by the number of Lots, whether or not Units have been constructed thereon. The resulting figures shall be the assessment per Lot, provided that that figure applies to all improved lots. Unimproved lots shall be assessed one-fifth (1/5) of that figure and multi-family lots shall be assessed one-half (1/2) of that figure for each Unit on the multi-family lot.

Section 10. Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association. If any of the assessments set forth in this Article VI or any other Article of this Declaration are not paid on or before the due date, the entire aggregate amount of such unpaid assessments shall, together with the interest thereon and costs of collection thereof as hereinafter provided, be deemed delinquent and in default and shall be a charge and continuing lien on the Lot and Unit of the Owner against whom each such assessment is made, such Owner's heirs, devisees, personal representatives and assigns. The obligation to pay such assessments, together with interest thereon and costs of collection, however, shall remain a personal obligation of the Owner of such Lot or Unit at the time when the assessments fell due, notwithstanding that such Lot or Unit may be sold or otherwise transferred. The Association may record a notice of lien for delinquent assessments in the public records and foreclose the lien in the same manner as a mortgage. The lien shall not be valid against subsequent bona fide purchasers or mortgagees for value unless so recorded. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments thereafter until satisfied of record.

If the assessments are not paid within thirty (30) days after the delinquency date, a late charge equal to five percent (5%) of the assessment shall be due and payable and the assessments (but not the late charge) shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, simple interest (but not to exceed the maximum charge permitted under applicable law), and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, or both, and there shall be added to the amount of such assessments the costs 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 attorneys fee to be fixed by the court together with the costs of the action.

Section 11. Additional Consequences of Non-Payment of Assessment. In the event that any of the assessments set forth in this Declaration are deemed delinquent and in default pursuant to Section 9 hereof, then, during the period of such default and delinquency, and for so long as any such assessment, together with interest thereon and costs of collection thereof, remain due with interest thereon and costs of collection thereof, remain due and unpaid, the Association may (1) suspend the voting rights, (2) suspend any rights of use of Common Areas and (3) suspend the right to request or to obtain approval on any pending request before the ACC, of the Owner against whom the assessment was made. The liability for assessments may not be avoided by the waiver or suspension of (1) voting rights, (2) the use and enjoyment of common areas, or (3) access to or approval of requests by the ACC, or by abandonment of the property against which the assessment was made.

Section 12. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of

Amended and Restated Declaration of Covenants, Conditions and Restrictions

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any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Property as defined in Article I hereof; (c) all property dedicated for recreational use by Declarant or the Association; (d) Property designated as Parks.

Section 13. Costs of Collection. The Association shall be entitled to recover its costs of collection and attorneys' fees from any Owner against whom an assessment must be enforced.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. Establishment of the Architectural Control Committee. There is hereby established an Architectural Control Committee.

Section 2. Duties of and Functions of ACC. The duties, powers and responsibilities of the ACC shall be as follows:

A. The ACC shall consist of three (3) or more persons, two-thirds (2/3) of which shall be designated and appointed by the Declarant and One-third (1/3) by the Board of the Association. After the Turnover date, as defined herein, the ACC shall consist of three or more persons designated and appointed by the Board of Directors. A record of the Members of the ACC shall at all times be kept at the offices of the Association and such information shall be provided to any Owner or prospective purchaser of any Lot or Improved Unit upon request.

Members of the ACC need not be officers, directors or members of the Association, however, the Association shall at all times keep a record of the Members of the ACC which shall be made available to the parties and in the manner provided above.

B. The duties of the ACC shall include the specific approval or disapproval of all architectural, engineering, platting, planning and landscaping aspects of any improvement or development of individual units or buildings as well as the general plan for development of any individual Lot or subdivision, tract or parcel of land within the Properties. The ACC may also, in its sole discretion, impose standards of architectural and landscaping design, building setback lines or the general plan for development, which standards are greater or more stringent than standards prescribed in applicable building, zoning, planning or other local governmental codes.

C. No building, sign, outside lighting, fence, hedge, wall, walk or other structure shall be constructed, erected, removed, or maintained, nor shall any addition to or any change or alteration therein or thereto be made until the plans and specifications showing the nature, kind, shape, height, materials, plans, color scheme and the location of same shall have been submitted to and approved in writing by the ACC. Any change in the outward appearance of any improvement, including but not limited to, repainting the same in a different color, adding decorative sculptures, wrought iron grills or the like, shall also require approval in writing by the ACC before any work is commenced. Disapproval of plans, specifications or location may be based upon any ground, including purely aesthetic considerations, which the ACC, in its sole and uncontrolled discretion, deems sufficient.

D. As part of the application process, two (2) complete sets of plans and specifications Amended and Restated Declaration of Covenants, Conditions and Restrictions



prepared by an architect or other person found to be qualified by the ACC shall be submitted for approval by written application on such form as may be provided or required by the ACC. In the event the information submitted to the ACC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

E. The ACC shall have the right to refuse to approve any plans and specifications that it deems are unsuitable or undesirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably or capriciously withheld. In approving or disapproving such plans and applications, the ACC shall consider the suitability of the proposed building, improvements, structure or landscaping and materials of which the same are to be built, the site upon which it is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property.

F. Unless specifically excepted by the ACC, all improvements for which approval of the ACC is required under this Declaration shall be completed within (a reasonable time from the date of commencement of said improvements) or within the time set by the ACC in the event that the approval is so conditioned.

G. In the event the ACC shall fail to specifically approve or disapprove the plans and specifications submitted in final and complete form within thirty (30) days after written request for approval or disapproval such plan and specification shall be deemed disapproved

H. There is specifically reserved unto the ACC the right of entry and inspection upon any Lot for the purpose of determination by the ACC whether there exists any construction of any improvement which violates the terms of any approval by the ACC or the terms of this Declaration or of any other covenants, conditions and restrictions to which its deed or other instrument of conveyance makes reference. The ACC with Board of Director approval is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorneys fees in connection therewith. The Association shall indemnify and hold harmless the ACC from all costs, expenses and liabilities, including attorneys' fees, incurred by virtue of any member of the ACC's service as a member of the ACC.

I. A majority of the ACC may take any action of the committee and may designate a representative to act for it. In the event of death, disability or resignation of any member of the ACC, the appointing entity, either the Board or Declarant, shall designate a successor.

J. The ACC may recommend to the Board of Directors such further rules and regulations as it deems necessary to carry out its function and purposes hereunder, provided all such rules and regulations and shall be filed with and made a part of this Association's minutes.

K. The Association, Declarant, the ACC and any officer, employee, director or Member thereof shall not be liable for damages to any person submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications.

Every person who submits plans and specifications for approval agrees, by submission of such



plans and specifications, that it will not bring any action or suit against the Association, Declarant or ACC to recover any such damages.

L. If a member of the ACC has a financial interest in any matter subject to a vote by the ACC, such members shall abstain from voting on that matter.

ARTICLE VIII

RESTRICTIONS AND COVENANTS

Section 1. Compliance by Owners: Restrictions and Covenants. Every Owner shall comply with the restrictions and covenants set forth herein and any and all rules and regulations adopted by the Board. The following are the initial Restrictions and Covenants of Settler's Bay which may be amended, modified or added to from time to time as provided in the By-Laws:

A. Residential Use. Except as provided in Exhibit "B", attached hereto and made a part hereof, Settler's Bay, subject to this Declaration, shall be used for single-family residential purposes and related recreational facilities only and for no other purposes. Declarant and any assignee shall be able to build and maintain sales models and offices until such time as the last parcel in Settler's Bay is sold by Declarant or Declarant's assignee. Uses that do not conform to the applicable provisions of the applicable zoning ordinances, if any, will not be permitted.

Any Owner who shall lease his Residential Unit shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles and the By-Laws. The minimum period for any lease is six months.

B. Insurance. Nothing shall be done or kept on the Properties which shall increase the rate of insurance on any Lot, any Residential Unit, or the Common Areas without the approval of the Board, nor shall anything be done or kept on the Properties which would result in the cancellation of insurance on any Residential Unit, or any part of the Common Areas or which would be in violation of any law.

C. Temporary Buildings. No house trailer, mobile home, or similar facility or structure shall be placed on any lot except to serve as a single family dwelling or construction office during the construction of a permanent home, and said house or office trailer, mobile home, or similar facility or structure is to be removed upon completion of the permanent dwelling. In no event shall said house trailer, mobile home, or similar facility or structure or succession of such structures remain on any lot for more than twelve (12) months.

D. Trash and Garbage. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on the Properties except building materials during the course of construction of any approved structure; provided, however, that no unnecessary accumulation of scrap, trash, papers or other refuse in connection with such construction activity shall be permitted and all construction sites shall be regularly policed and kept neat and orderly to the extent reasonably possible. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made at such place as will be accessible to persons making such pick-up. At all other times, such containers shall be stored so that they cannot be seen from surrounding property. The ACC, in its discretion, may adopt and promulgate reasonable rules and regulations



relating to the size, shape, color and type of containers permitted and the manner of storage of the same. On site disposal of trash and garbage by burying or burning is expressly prohibited.

E. Burial of Pipe and Tanks. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained on the Properties above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No property shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth; provided, however, that nothing contained herein shall prohibit or restrict removal of fill or earth materials to construct or create approved drainage structures or landscaped berms, provided there is approval from the ACC.

F. Nuisance. Nothing shall be done on the Properties that is illegal or that may be or may become an annoyance or nuisance to the neighborhood. In the event of any questions as to what may be or become a nuisance, such questions shall be submitted to the Association for a decision in writing and its decisions shall be final.

G. Weeds and Underbrush. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the improved and landscaped portions of Properties and no refuse pile or unsightly objects shall be allowed to be placed or permitted to remain anywhere thereon.

H. Vehicle Parking. No vehicle, bus, boat, or trailer shall be parked in the street in front of any Lot except for construction and repair while a residence or residences are being built or repaired in the immediate vicinity; provided however, the period of construction shall last no longer than twelve (12) months. No unregistered or inoperable motor vehicle or trailer of any kind may be disassembled, serviced, repaired or stored on any street in Settler's Bay or on any of the Properties.

I. Drainage. No changes in elevations of property subject to these restrictions shall be made without the express written approval of the ACC. No established drainage pattern within an area designated as a drainage easement shall be altered without written approval of the Association and, if required, the MatSu Borough.

J. Animals. No horses, cattle, swine, goats, poultry, fowl or any other animals not commonly considered household pets shall be kept on the Properties. Under no circumstances shall any commercial or business enterprises involving the breeding, use, care or treatment of animals be conducted on the Properties. All pets shall be kept on a leash when not on or in the pet owners Lot or Unit and no pet shall be allowed to roam unattended. The Association may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on the Properties.

K. Business. Except as permitted in areas classified as commercial in Exhibit "B", no manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever will be conducted or carried on upon the Properties or in any building or other structure erected thereon, provided that

(1) on any Property, any artist, artisan, craftsman or other business person may pursue his endeavor so long as he also uses such private area for residential purposes, is self-employed



and has no employees working in such private area and does not advertise or offer any product or work to the public upon or from such private area. Any such business person may not create any excessive noise or traffic congestion.

L. Maintenance of Parking Areas, Etc. All setback areas, yards, walkways, Driveways, parking areas and drainage swales shall be maintained and kept in a neat and clean condition, free of refuse and debris.

M. Maintenance of Landscaped Areas. All landscaped areas (to the paved public right-of-way) shall be maintained in live, healthy and growing condition, properly watered and trimmed. Any planting of grass, shrubs or trees which become dead or badly damaged shall be replaced with similar, sound, healthy plant materials.

N. Maintenance of Landscaping to Public Right-of -Way Edge. Any Owner within the Properties that owns or has the maintenance responsibility for property adjoining any public right-of-way shall maintain the landscaping to the public right-of-way regardless of the property boundaries on the plat.

O. Fences. The composition, location and height of fences and walls must be approved by the ACC prior to installation.

P. Trees. The excessive removal of existing trees and shrubbery (as distinguished from brush and undergrowth) from any Lot shall not be permitted (except within the foundation perimeter line for the dwelling) unless landscaping of an equivalent or higher quality is substituted therefor and the prior approval of the ACC is obtained.

Q. Signs. No sign of any kind shall be displayed to the public view on any Lot or Residential Unit, except those that shall be in compliance with the guidelines established by the ACC and conforming to applicable MatSu Borough codes and ordinances, if any. The ACC shall have the right to establish guidelines so as to require a uniform standard for signs in the properties. Notwithstanding anything contained herein to the contrary, any Lot Owner shall be entitled to display to the public view on any Lot or Residential Unit, signs with a maximum dimension of six (6) square feet for the purpose of marketing and sales of such Lot or Residential Unit.

R. Lighting. No exterior lighting fixtures shall be installed on any Residential Unit without adequate and proper shielding of fixtures. No lighting fixture shall be installed that may be or become an annoyance or a nuisance to the other residents of Residential Units.

AA. Time Shares. No Lot or Residential Unit shall be owned or used in multiple or time share ownership.

BB. Size and Construction of Dwellings and, Garages.

Section 1. Lots One through Twenty-Six (1-26) in Block Seven (7), Block Sixteen (16) and Block Twenty-six (26) of Unit Two (2), Settler's Bay, shall contain a minimum of 1750 square feet of living area and shall have paved driveways and a two car garage either



attached to or detached from the structure which is not considered part of the living area.

Each single family residence to be constructed in Block One (1), Block Two (2), Block Three (3) and Block Four (4) of Unit One (1) shall contain a minimum of 1200 square feet of living area and shall contain a 1 car garage.

Block 6, Lots Twenty-seven (27) through Sixty-nine (27-69 in Block Seven (7), Block Eight through Fifteen (8-15), and Block Seventeen through Twenty-five (17-25) of Unit Two (2) Settler's Bay shall contain a minimum of 1,400 square feet of living area. Each and every dwelling must have a paved driveway and an enclosed garage, either attached to or detached from the main structure, capable of housing at least two large automobiles.

Block 6, Lots One (1) through (14) shall contain a minimum of 1,000 square feet of living area.

On multi-family dwellings, garages and paved driveways are required and the minimum size of each living unit it to be 800 square feet.

CC. Oil, Gas, Mineral, Mining and Excavation Operations. No oil, gas, mineral, mining or excavation operations of any kind or character shall be permitted upon any Lot or area of the Properties.

Section 2. Liability for Damage to Common Property. Each Owner shall be legally liable to the Association for all damages to the Common Property or to any improvements thereof or thereto, including, but not limited to, the buildings, recreational facilities and landscaping, caused by such Owner, his pet(s) his licensee(s) or any occupant of such Owners Residential Lot or Unit, as such liability may be determined under Alaska Law.

Section 3. Enforcement. Failure of the Owner to comply with the restrictions, covenants or rules and regulations set forth herein shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof, including costs and attorneys fees incurred in bringing such actions, and if necessary, costs and attorneys fees for appellate review. The Association shall have the right to enforce the provisions of this Declaration and to suspend voting rights and use of Common Areas for any Owner violating the provisions hereof for a period of time which is the longer of sixty (60) days or the term of continued violation.

Section 4. Fines. In addition to all other remedies, in the sole discretion of the Board of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, tenants or employees to comply with any covenant, restriction, rule or regulation, contained herein or promulgated pursuant to these Declarations provided the following procedures are adhered to:



A. Notice. The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be date and time of the next Board meeting at which time the Owner may, if he so desires, present reasons why penalty(ies) should not be imposed.

B. Hearing. The noncompliance shall be presented to the Board after which time the Board shall hear reasons why penalties should not be imposed. A written decision of the Board shall be submitted to the Owner by not later than twenty-one (21) days after the Boards meeting.

C. Penalties. The Board may impose fines in the form of individual assessments against the Residential Unit or Lot owned by the Owner as follows:

(1) first noncompliance or violation: a fine not in excess of One Hundred and No/100 Dollars (\$100.00);

(2) second noncompliance or violation: a fine not in excess of Five Hundred and No/100 Dollars (\$500.00);

(3) third and subsequent noncompliance, or violation or violations that are of a continuing nature: a fine not in excess of Twenty-five and 00/100ths Dollars (\$25.00) for each day of continued violation or noncompliance.

D. Payment of Penalties. Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the penalties.

E. Collection of Fines. Fines shall be treated as an assessment otherwise due to the Association, and as such will be a personal obligation of the Owner(s) and a lien against the Owner'(s) Lot.

F. Application of Penalties. All monies received from fines shall be allocated as directed by the Board.

G. Nonexclusive Remedy. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled, including without limitation, injunctive relief.

ARTICLE IX

AMENDMENTS

These Covenants, Conditions and Restrictions may be amended, modified or revoked in any respect from time to time by Declarant prior to the time of the first conveyance of a Common Area to the Owners Association. Subsequent to that time, the Covenants Conditions and Restrictions may be amended, modified or revoked by a vote of the members of the Association who own 75% of the lots in the project. Declarant's rights as Declarant will end with the first transfer of Common Area to the Association. The date of first transfer of Common Area to the Association shall also be known as the Turnover Date.



ARTICLE X

DAMAGE, DESTRUCTION AND CONDEMNATION OF COMMON PROPERTY

Section 1. Casualty. If any portion of the Common Area is damaged or destroyed by fire or other casualty, then:

(a) If the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, the Board shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications therefore.

ARTICLE XI

DAMAGE, DESTRUCTION AND
CONDEMNATION OF RESIDENTIAL UNITS

Section 1. Damage and Destruction. In the event of damage or destruction to any Residential Unit, the Owner thereof shall reconstruct the same as soon as reasonably practical and substantially in accordance with the original plans and specifications therefore; provided, however, that any such Owner may reconstruct or repair the same pursuant to new or changed plans and specifications after obtaining the written approval of the ACC as hereinabove provided. In the event the Board fails to approve or disapprove such changed plans and specifications within thirty (30) days of the receipt thereof, they shall be deemed to have been disapproved.

ARTICLE XII

SPECIAL PROVISIONS

Section 1: Fires. There shall be no exterior fires whatsoever except barbeque fires contained within receptacles made for that particular purpose, except as follows:

A. During the months of October 1 to April 1, exterior fires are permitted solely for the purpose of yard clean-up and only upon receipt of a burn permit from the Mat-Su Borough. No fires shall be allowed during periods determined by the Mat-Su Borough to be "high fire hazard."

Section 2: Commercial Vehicles.

A. No commercial vehicles or similar construction equipment shall be parked, placed, erected or maintained on any lot for any purpose except during construction and except where a resident drives a commercial vehicle to and from his work location at least twice weekly.

B. Extra vehicles, inoperable or otherwise, that are not used at least monthly shall be kept in a garage or other structure suitable for such purpose. This includes storage of campers, boats, recreational vehicles, snow machines and trailers or any other vehicles or machinery. Proposals to store operational campers, motor homes and boats, only, alongside garages or other structures will be evaluated by the ACC on a case-by-case basis provided that such proposals contain, at a minimum, the construction of a suitable pad which shall either be paved or shall contain at least



4 inches of gravel fill. The purpose of this provision is to keep unsightly equipment, whether frequently used or unused, out of sight to the greatest extent possible.

Section 3. Noise Control.

A. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises or are operated in an unsafe manner shall not be operated within the subdivision.

B. Excessive animal noise is prohibited at any time of day or night.

C. Outside construction activity is prohibited between the hours of 9:00 P.M. and 7:00 A.M.

Section 4. Recreation Trails. The perimeter of the subdivision designated as a pedestrian easement on the recorded plat map(s) is dedicated to the building and use of cross country ski trails and hiking trails and shall not be used by motorized vehicles.

Section 5. Firearms or Explosive Devices. The discharge of firearms and any other explosive device in Settler's Bay is strictly prohibited.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) 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 with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year period for an additional ten (10) year period; provided, however, that this Declaration may be terminated and released at any time upon the vote of two-thirds (2/3) of the votes cast by Members at a duly held meeting of Members. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least sixty (60) days advance of said meeting. In the event that the Association votes 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 to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of Amended and Restated Declaration of Covenants, Conditions and Restrictions



votes cast against such resolution. The certificate shall be recorded in the Records of the Palmer Recording District, Third Judicial District, State of Alaska, along with a copy of the resolution itself, 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 by Members. After the Turnover date this Declaration may be amended at a regular or special meeting of the Members by a vote of at least sixty-seven percent (67%) of the total voting power of the Members of the Association. Prior to the Turnover date any such amendment shall require the written approval of the Declarant as provided in Article III, Section 4, above.

Section 3. Special Exceptions and Variations. Unless the written consent of the Association is first obtained, no Owner shall file a request for zoning variations, special exceptions or zoning changes affecting or relating to land within the Properties.

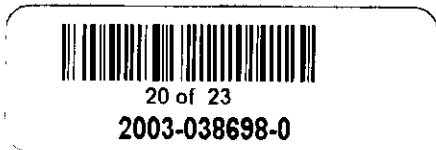
Section 4. Power of Attorney. The Association is hereby granted an irrevocable power of attorney to represent the Owners in any proceedings, negotiations, settlements or agreements relating to the damage, destruction or condemnation of the Common Property.

Section 5. Enforcement. Enforcement of the covenants, conditions and restrictions contained in this Declaration shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors or assigns, or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and to enforce any lien created by this Declaration. Failure by the Association or any Owner to enforce any covenant, condition 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 6. Severability. Should any covenant, condition 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 7. Interpretation. The Board shall have the right except as limited by any other provisions of this Declaration or the By-Laws to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and its good faith determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best tend toward furthering the interests of the Owners in creating and maintaining an attractive healthful, pleasant development.

Section 8. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board in the



manner provided for in the By-Laws, unless the terms of this instrument provide otherwise.

Section 9. Termination of Declaration. Should the Members of the Association vote not to renew and extend this Declaration as provided for herein, all Common Property owned by the Association at such time shall be transferred to another association or appropriate public agency having similar purposes. If no other association or agency will accept such property then it will be conveyed to a trustee appointed by a Court of competent jurisdiction, which trustee shall sell the Common Property free and clear of the limitations imposed hereby, upon terms established by such Court. That portion of the Open Space or Common Property consisting of the Surface Water Management System cannot be altered, changed or sold separate from the lands it serves. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Property, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of the Common Property. The excess of proceeds, if any, from Common Property shall be distributed among Owners in a proportion which is equal to the proportionate shares of such Owners in Common Expenses.

Section 10. Execution of Documents. To the extent that any documents are from time to time required of the Owners, the Board, through its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents after approval thereof by the requisite number of Directors at a duly called meeting, and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint the Board as their proper and legal attorneys-in-fact for such purpose. Such appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section shall recite that it is made pursuant to this Section.

Section 11. Singular, Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

Section 12. Constructions. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Properties.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this 22nd day of December, 2003.

Declarant: SETTLER'S BAY DEVELOPMENT COMPANY, INC.

By Justin Syu
Its Vice President

STATE OF WASHINGTON)

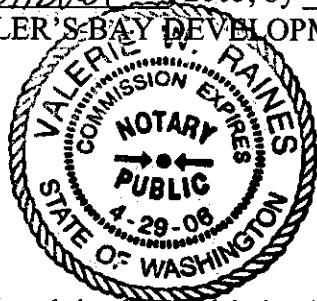


WHATCOM COUNTY

) ss.

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The foregoing instrument was acknowledged before me this 22nd day of December, 2003, by Jonathan Syre, Vice President of SETTLER'S BAY DEVELOPMENT COMPANY, INC., on behalf of the corporation.



Valerie W. Raines
Notary Public in and for Washington

My commission expires: 042906

F:\378\02\amended and restated declaration of covenants, conditions & restrictions8



EXHIBIT "A"

In the Palmer Recording District In the Palmer Recording District

NOTICE BY SETTLERS BAY OWNERS ASSOCIATION, INC.

Settlers Bay Owners Association, Inc., (hereafter the "Association") is the Association of Lot Owners who are members pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions, recorded October 25, 1996, in Book 870, at Page 814, Palmer Recording District. The Association is charged by the Declaration with the assessment of Lot Owners and the regulation of the Lots that make up Settlers Bay Subdivision, Units 1 and 2, under the land use classification and restrictions and architectural control requirements of the Declaration.

At the time this notice is given, Owners of the following lots form the Settlers Bay Owners Association and are subject to regulation and assessment by the Association:

Lots 1-35, Block 1; Lots 1-47, Block 2; Lots 1-39, Block 3; Lots 1-17, Block 4; Settler's Bay Subdivision, Unit No. 1, according to Plat No. 75-61, Palmer Recording District, Third Judicial District, State of Alaska;

Lots 1-14, Block 6; Lots 1-37, 42-49 and 52-69, Block 7; Lots 1-17, Block 8; Lots 1-63, Block 9; Lots 1-51, Block 11; Lots 1-18, Block 12; Lots 1-47, Block 13; Lots 1-41, Block 14; Lots 1-6, Block 15; Lots 1-11, Block 16; Lots 1-27, Block 17; Lots 1-33, Block 18; Lots 1-16, Block 19; Lots 1-38, Block 20; Lots 1-24, Block 21; Lots 1-43, Block 22; Lots 1-31, Block 23; Lots 1-51, Block 24; Lots 1-21, Block 25; Lots 1-23, Block 26, Settlers Bay Subdivision, Unit No. 2, according to Plat No. 77-17, Palmer Recording District, Third Judicial District, State of Alaska; and

Lots 1-5, Block H; Lots 1-8, Block I, Settlers Bay Subdivision, Unit No. 2, according to Plat No. Plat 77-18, Palmer Recording District, Third Judicial District, State of Alaska.

The Association is also charged by the Declaration with maintenance of any Common Area tracts conveyed to it by Declarant. At the time this notice is given, however, no Common Area tracts have been conveyed to the Association.



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Recording Dist: 311 - Palmer

1/28/2004 9:21 AM Pages: 1 of 25

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THIS COVER SHEET HAS BEEN ADDED TO THIS DOCUMENT TO PROVIDE SPACE FOR RECORDING DATA. THIS COVER SHEET APPEARS AS THE FIRST PAGE OF THE DOCUMENT IN THE OFFICIAL PUBLIC RECORD.

DO NOT DETACH



2003-038698-0

Recording Dist: 311 - Palmer
12/30/2003 9:54 AM Pages: 1 of 23

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AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SETTLER'S BAY SUBDIVISION

This Amended and Restated Declaration of Covenants, Conditions and Restrictions (Declaration) for Settler's Bay Subdivision ("Settler's Bay") is made by SETTLER'S BAY DEVELOPMENT COMPANY, INC., hereinafter referred to as Declarant.

WITNESSETH:

WHEREAS, Declarant is an owner of certain real property located in the Palmer Recording District, Third Judicial District, State of Alaska; and

WHEREAS, in Article VII, Section 5 of the Amended Declaration of Covenants, Conditions and Restrictions made on October 15, 1996 and records in Book 0870 at Page 814 to 825, in the records of the Palmer Recording District, Third Judicial District, State of Alaska, the Declarant reserves the right to subsequently amend the Covenants, Conditions and Restrictions; and

WHEREAS, Declarant desires to amend, restate, and modernize the Covenants, Conditions and Restrictions for the Settler's Bay Subdivision.

NOW, THEREFORE, the Declarant hereby declares that all of said property is hereby made and shall hereafter be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, reservations, liens, charges, and uses hereinafter set forth, and that the Original Declaration and any Amended Declaration prior to the date hereof is released and terminated in full. Effective as of the recording date hereof, said covenants, conditions, restrictions, reservations, liens, charges and uses shall run with the real property described in Exhibit A attached hereto, shall be binding upon all parties having and/or acquiring any right, title or interest in the said real property or in any part thereof, and shall inure to the benefit of each and every person or entity from time to time owning or holding an interest in said real property.

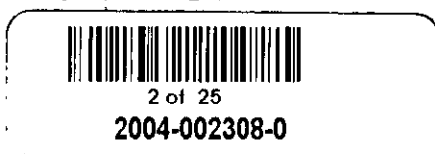
ARTICLE I

DEFINITIONS

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

A. Articles and By-Laws shall mean and refer to the Articles of Incorporation and the By-Laws of the Association as they may exist from time to time.

RETURN TO
BUZ HOFFMAN
P.O. BOX 877534
WASILLA, AK. 99687



B. Association shall mean and refer to Settler's Bay Owner's Association, Inc. an Alaskan non-profit corporation, its successors and assigns, and it shall be a homeowners association.

C. Board shall mean the Board of Directors of the Association.

D. Common Expenses shall mean and refer to expenditures for maintenance, operation and other services required or authorized to be performed by the Association with respect to Common Property, Parks, Open Spaces, or Public Areas.

E. Common Property or Common Area shall mean and refer to all real property, together with any improvements thereon, which are actually and specifically dedicated, deeded or leased to the Association and designated in said dedication, deed or lease as Common Property. The term Common Property shall also include any personal property acquired by the Association if said property is designated as Common Property in the bill of sale or instrument transferring such property. Common Property is specifically reserved for the use and benefit of members, and is an integral appurtenant part of each Lot and Residential Unit. As of the date of these declarations there is no Common Property.

F. Declarant shall mean SETTLER'S BAY DEVELOPMENT COMPANY, INC. Wherever the term Declarant is used in the Declaration, the Articles or By- Laws of the Association, it shall always be deemed to include Declarant's successors and assigns.

G. Declaration shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Settler's Bay and includes the same as it may, from time to time, be amended.

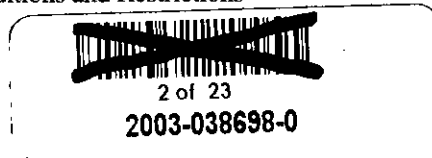
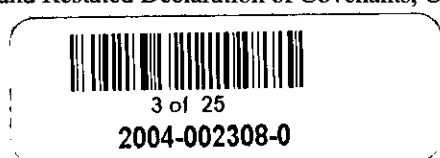
H. Architectural Control Committee or ACC shall refer to the committee established by the Board of Directors and described in Article VII hereof.

I. Driveway shall mean and refer to the paved or concrete surface on a Lot running from the garage portion of the Residential Unit or multi family unit to the street providing access to such Residential Unit, which Driveways are a part of the Lot and are to be maintained at the Lot Owner's expense.

J. Eligible Insurer or Guarantor shall mean and refer to an insurer or governmental guarantor who has requested notice from the Association of those matters which such insurer or guarantor is entitled to notice of by reason of this Declaration or the by-law's.

K. Eligible Deed of Trust Beneficiary shall mean and refer to a beneficiary of a first Deed of Trust on a Residential Unit who has requested notice from the Association of those matters which such holder is entitled to notice of by reason of this Declaration or the By-Laws.

L. Lot shall mean any parcel of land, but excluding tracts, shown upon any recorded subdivision map or plat of the Properties. Owners of tracted land not a part of Exhibit A must Amended and Restated Declaration of Covenants, Conditions and Restrictions



petition the Association should such owners desire to become members of the Association.

M. Member shall mean and refer to all those Owners who are Members of the Association, as provided in Article III hereof.

N. Notice shall mean delivery of any document by U.S. mail with postage prepaid, to the last known address according to the records of the Association of the person or entity who appears as Owner in the records of the Association. Notice to one of two or more co-Owners shall constitute notice to all Owners.

O. Open Space shall mean an out-of-doors open area from the ground upward devoid of residential and commercial buildings, accessory structures and impervious areas and intended by these covenants to remain as such.

P. Owner shall mean and refer to the owner as shown by the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities) of fee simple title to any Residential Unit or Lot located within the Properties. Owner shall not mean or refer to the holder of a deed of trust, its successors or assigns, unless and until such holder 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. Owner shall also include one (1) or more persons or entities who are purchasing pursuant to an installment or land sales contract and who will not be entitled to receive fee simple title of record until they have performed the terms of said installment or land sale contract (hereafter referred to as "land sale contract" and/or "land sale contract purchaser").

Q. Parks shall mean lands within the Properties, title to which is held by the Association, dedicated by an instrument recorded in the real property records of the Palmer Recording District, Third Judicial District, State of Alaska, as park land to be used for recreational purposes exclusively by the Members, their guest and invitees, which lands shall also be designated as Common Property.

R. Properties shall mean and include the real property described in Exhibit A attached hereto, together with other real property added thereto in accordance with this Declaration.

S. Residential Unit shall mean an approved structure situated on a platted Lot intended for use as a dwelling located within the Properties. For the purposes of this Declaration, any such dwelling shall not be deemed to be approved until a certificate of occupancy therefor, if required, has been issued by the Design Review Committee.

T. Turnover shall mean the transfer of operation of the Subdivision to the Association by the Declarant as described in Article IX hereof.

U. Voting Member shall mean Lot Owners. All vote allocations are as provided in Article III, Section 2, hereof.



V. Settler's Bay shall mean a subdivision in the Palmer Recording District, Third Judicial District, State of Alaska, according to the maps or plats thereof recorded as described in Exhibit "A".

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

Section 1. Declaration. The real property subject to this Declaration is described in Exhibit A attached hereto and made a part hereof. Additional real property (including Common Property) out of, adjacent to or in the immediate vicinity of Settler's Bay may be added to the Properties by an amendment to this Declaration which includes the description of such additional real estate, and which submits the additional lands to the provisions of this Declaration. Any such amendment shall be executed by the Declarant and the Owner of the property constituting the additional real property to be added to the Properties without requiring the joinder or consent of any other Owner, other person or entity (except as may be otherwise required by the Articles of Incorporation of the Association) prior to the Turnover date and, in place of the Declarant, by the President of the Board pursuant to a duly taken resolution of the Board of Directors after the Turnover date. The amendment, when recorded in the Real Property Records of Palmer Recording District, Third Judicial District, State of Alaska, shall bring the additional property under the provisions of this Declaration.

ARTICLE III

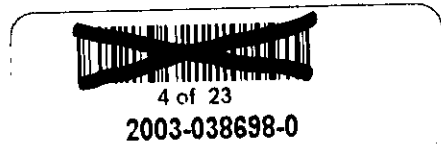
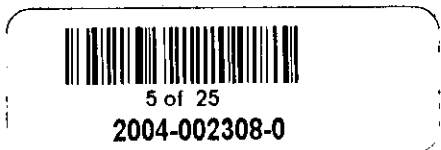
ASSOCIATION

Section 1. Membership. Every Owner, including the Declarant, shall be a Member of the Association, and by acceptance of a deed or other instrument evidencing ownership acknowledges the authority of the Board and the Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association. In addition to the foregoing, the family guests, invitees and tenants of the Owners shall, while in or on the Properties, shall abide and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association. Membership shall be appurtenant to and may not be separated from ownership of the Lot.

Section 2. Voting Rights.

A. The Association shall have one (1) class of voting membership. Owners shall have one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot all such persons shall be members. The vote for such Lot shall be exercised as they, among

themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.



B. When any property entitling the Owner to membership in 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 fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, such Owner shall select one official representative to qualify for voting in the Association and shall notify the Secretary in writing of the name of such individual. The vote of each individual shall be considered to represent the will of all the Owners of that property. In the circumstances of such common ownership, if the Owners fail to designate their voting representative, the Association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by any of the other Owners. Upon such notification none of such Owners may vote with respect to the jointly held property until all of such Owners appoint their representative pursuant to this paragraph.

C. In order to vote, an owner's dues must be current and not past due after June 30 of the relevant year.

D. For purposes of determining voting rights hereunder the membership roster shall be set and the record date established as of fifteen (15) days prior to each meeting of Members.

E. The cumulative system of voting shall not be allowed.

Section 3. Change of Membership. Change of Membership in the Association shall be established by recording in the Real Property Records of Palmer Recording District, Third Judicial District, State of Alaska, a deed or other instrument conveying record fee title to any Lot, and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior Owner shall be terminated. The Owner shall be liable for accrued and unpaid fees and assessments attributable to the Lot acquired. The interest, if any, of a Member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's real property. Membership in the Association by all Owners shall be compulsory and shall continue, as to each Owner, until such time as such Owner of record transfers or conveys his interest in the real property upon which his membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall be appurtenant to, run with, and shall not be separated from, the real property interest upon which membership is based.

ARTICLE IV

FUNCTIONS OF ASSOCIATION



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Section 1. Functions. The Association, through its Board of Directors, unless such function is specifically delegated to the Owners, shall have the power to perform the following functions:

A. The Association shall provide maintenance of all Parks, Open Space, Common Property and Recreation Areas, where deterioration of any of the described items would adversely affect the appearance of the Properties or the operation of systems appurtenant to Settler's Bay.

B. The Association shall provide maintenance of any real property located within Settler's Bay upon which the Association has accepted an easement for said maintenance.

C. The Association shall have the power to take any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions of services delegated to the Association in any covenants, conditions or restrictions applicable to the Properties or in the Articles or By-Laws.

D. The Association shall have the power to conduct the business of the Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing Members of activities, Notice of Meetings and other important events. The Association shall have the right to enter into management agreements with companies, whether affiliated with the Declarant, or not, in order to provide its services, and perform its functions.

E. The Association shall purchase general liability and hazard insurance covering improvements and activities on the Common Property, if any, at a current replacement cost basis, as the Board deems necessary. The Association may additionally cause all officers or employees having fiscal responsibility to be bonded.

F. The Association shall establish and operate the Design Review Committee as hereinafter defined.

G. The Association may adopt, publish and enforce such Rules and Regulations as the Board deems necessary.

H. The Association may construct improvements on Common Property and easements as may be required to provide the services as authorized in Section 1 of this Article.

I. The Association may establish use fees and promulgate rules and regulations respecting the use of Common Property and Association facilities by Members and persons other than Members.

J. The Association may carry out any of the functions and services specified in Section 1 of this Article to the extent such maintenance and services can be provided with the proceeds from annual assessments and, if necessary and appropriate, from special assessments. The functions and services allowed in Section 1 of this Article to be carried out or offered by the Association at any particular time shall be determined by the Board taking into consideration proceeds of assessments and the needs of the Association. Subject to the provisions of Article III, Section 4 hereof, the functions and services which the Association is authorized to carry out or

Amended and Restated Declaration of Covenants, Conditions and Restrictions

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provide, may be added to or reduced at any time upon the affirmative vote of a majority of the Board. The Association may provide the permitted services by contract with third parties, including agreements with applicable governmental agencies.

Section 2. Conveyance to Association. The Association shall be obligated to accept any and all conveyance to it by Declarant of fee simple title, Open Space, Parks, Surface Waters Management Systems or Common Property.

ARTICLE V

EASEMENTS

Section 1. Declarant Easements. The Declarant hereby reserves to itself, its successors and assigns, and to such other persons as Declarant may from time to time designate in writing, a perpetual easement, privilege and right in and to, over, under, on and across the Common Property for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees; provided, however, that such access and use does not unnecessarily interfere with the reasonable use and enjoyment of these properties and facilities by the Owners. Declarant reserves the right to impose further restrictions and to grant or dedicate to itself or others additional easements and rights-of-way on any of the Properties owned by Declarant.

Section 2. Extent of Easements. The rights and easements of enjoyment created in this Article V shall be subject to the following:

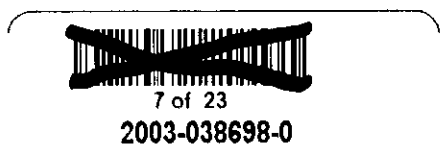
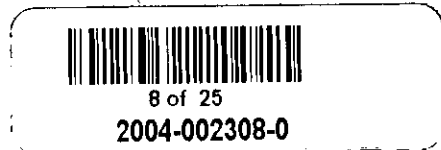
A. The right of the Declarant or the Association, in accordance with its By-Laws, to borrow money from any lender for the purpose of improving and/or maintaining the Parks, Open Space, and Common Property and providing services authorized herein and, in aid thereof, and subject to Article IV, Section 2, to mortgage said properties;

B. The right of the Association to suspend the rights and easements of enjoyment of any Member or any tenant of any Member for any period during which any assessment remains unpaid, and for any period, not to exceed sixty (60) days, for an infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Members obligation to pay the assessment.

C. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility that may be situated on or in the Common Property.

D. The right of the Association to give, dedicate, encumber or sell all or any part of the Common Property (including leasehold interests therein) to any public agency, authority or utility or private concern for such purposes, subject to the Owners perpetual non-exclusive easement for ingress and egress set forth in Article V, Section 1 and subject to Article IV, Section 2 and such conditions as may be determined by the Association. No such gift, dedication or encumbrance, or sale shall be effective unless approved by seventy-five percent (75%) of all Members agreeing to such a transaction has been recorded.

E. Any Owner may delegate, to the members of his family, his tenants or his contract Amended and Restated Declaration of Covenants, Conditions and Restrictions Page 7



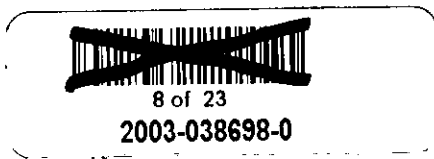
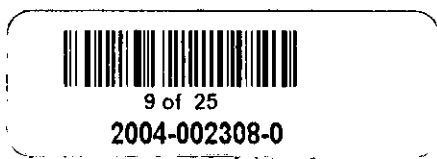
purchasers in accordance with the By-Law of the Association, his right of enjoyment to the Common Areas and facilities. Such delegation is only permissible to the extent said delegatee resides on the property and only in accordance with the By-Laws of the Association. Owners shall be held liable for any damage in Common Areas and Association owned facilities caused by delegates.

ARTICLE VI
ASSESSMENTS

Section 1. Covenant to Pay Assessment. The Declarant covenants, and each Owner of any Residential Unit or Lot shall by acceptance of a deed therefor, regardless of whether 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 the Association: (1) annual assessments, (2) special assessments and (3) individual assessments, all fixed, established and collected from time to time as hereinafter provided. Each such assessment, together with such interest thereon as may be provided for herein and costs of collection, shall also be the personal obligation of the person who was the Owner of such real property at the time when the assessment first became due and payable. Each such assessment, together with such interest thereon as may be provided for herein and costs of collection shall be a continuing lien upon the property against which each such assessment was made. The liability for assessments may not be avoided by waiver of (1) voting rights, or (2) the use or enjoyment of any Common Property, or (3) by the abandonment of the property against which the assessment was made. In the case of co-ownership of a Residential Unit or Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively for the improvements, maintenance, enhancement and operation of the Parks, Open Space, and Common Property and to provide services which the Association is authorized or required to provide including, but not limited to, the payment of taxes and insurance, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions, including the costs of the ACC, and for the payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions. The Association may establish reasonably necessary reserve funds to be held in reserve for: (a) major rehabilitation or major repairs to Common Property that must be replaced on a periodic basis; (b) emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss; and (c) insurance premiums or taxes.

Section 3. Special Assessments. In addition to the annual assessments authorized by Section 2 of this Article, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the costs of any acquisition, construction or reconstruction, repair or replacement of a described capital improvement upon Common Property or easements, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Members at a meeting duly called for that purpose. The Board of Directors may provide for the payment of such special assessments on a monthly basis.



Section 4. Individual Assessments. The Association may impose an individual assessment upon any Owner whose use or treatment of Common Areas, Residential Unit or Lot is not in conformance with the standards as adopted by the Association or which increases the maintenance cost to the Association above that which would result from compliance by the Owner with the use restrictions imposed by this Declaration.

Section 5. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall be due and payable in full on or before the 1st day of July after notice of an assessment is sent by the Board to the Owners. The Board, pursuant to the By-Laws, shall determine any changes in the due date or the date of the commencement of the annual assessments.

Section 6. Due Date of Special and Individual Assessments. Except as otherwise expressly provided herein, the due date of any special or individual assessment under Sections 3 and 4 of this Article, respectively shall be fixed in the resolution authorizing such assessment.

Section 7. Determination of Annual Assessments. Each year the Board shall prepare a budget. Within thirty (30) days after adoption of a proposed budget, the Board shall provide a summary of the budget to each Member, and shall set a date for a meeting of the Members to consider ratification of the budget not less than fourteen (14), nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Members reject the budget, the budget is ratified whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Members continues until the Members ratify a budget proposed by the Board. Each year, after proposing the budget, the Board shall determine the total annual assessment for the Properties, taking into consideration, among other things, the then current maintenance costs, estimated increases in maintenance costs and future needs of the Association. Except as provided in Section 10 herein, annual assessments shall be allocated equally among all Lots. Written notice of any meeting of the Board at which the Board shall consider determination of the annual assessment or any special assessment shall be sent to all voting Members not less than thirty (30) days nor more than sixty (60) days in advance of the Board meeting. At the first such meeting called, if the required quorum is not present, another meeting of the Board may be called, subject to the same notice requirements; and if the required membership quorum is not present at such subsequent meeting, the Board shall be authorized to determine the total annual assessments or any special assessments without obtaining the approval required, if any, of the Members.

Section 8. Duties of the Board of Directors. The Board shall prepare a roster of Owners, the Lots and the Residential Units owned by each and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, at any time, furnish to any Owner liable for any assessment a certificate in writing, signed by an officer of the Association, setting forth whether such assessment has been paid. Such certificate shall be prime facie evidence of payment of any assessment therein stated to have been paid.

Section 9. Allocation of Assessments. The total annual assessment and special assessment set by the Board for the Properties (exclusive of the individual assessments provided for in Amended and Restated Declaration of Covenants, Conditions and Restrictions



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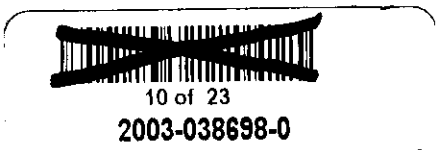
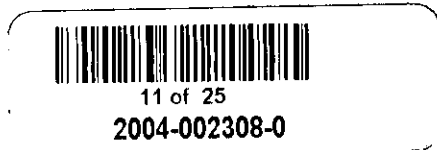
Section 4) shall be divided by the number of Lots, whether or not Units have been constructed thereon. The resulting figures shall be the assessment per Lot, provided that that figure applies to all improved lots. Unimproved lots shall be assessed one-fifth (1/5) of that figure and multi-family lots shall be assessed one-half (1/2) of that figure for each Unit on the multi-family lot.

Section 10. Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association. If any of the assessments set forth in this Article VI or any other Article of this Declaration are not paid on or before the due date, the entire aggregate amount of such unpaid assessments shall, together with the interest thereon and costs of collection thereof as hereinafter provided, be deemed delinquent and in default and shall be a charge and continuing lien on the Lot and Unit of the Owner against whom each such assessment is made, such Owner's heirs, devisees, personal representatives and assigns. The obligation to pay such assessments, together with interest thereon and costs of collection, however, shall remain a personal obligation of the Owner of such Lot or Unit at the time when the assessments fell due, notwithstanding that such Lot or Unit may be sold or otherwise transferred. The Association may record a notice of lien for delinquent assessments in the public records and foreclose the lien in the same manner as a mortgage. The lien shall not be valid against subsequent bona fide purchasers or mortgagees for value unless so recorded. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments thereafter until satisfied of record.

If the assessments are not paid within thirty (30) days after the delinquency date, a late charge equal to five percent (5%) of the assessment shall be due and payable and the assessments (but not the late charge) shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, simple interest (but not to exceed the maximum charge permitted under applicable law), and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, or both, and there shall be added to the amount of such assessments the costs 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 attorneys fee to be fixed by the court together with the costs of the action.

Section 11. Additional Consequences of Non-Payment of Assessment. In the event that any of the assessments set forth in this Declaration are deemed delinquent and in default pursuant to Section 9 hereof, then, during the period of such default and delinquency, and for so long as any such assessment, together with interest thereon and costs of collection thereof, remain due with interest thereon and costs of collection thereof, remain due and unpaid, the Association may (1) suspend the voting rights, (2) suspend any rights of use of Common Areas and (3) suspend the right to request or to obtain approval on any pending request before the ACC, of the Owner against whom the assessment was made. The liability for assessments may not be avoided by the waiver or suspension of (1) voting rights, (2) the use and enjoyment of common areas, or (3) access to or approval of requests by the ACC, or by abandonment of the property against which the assessment was made.

Section 12. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of Amended and Restated Declaration of Covenants, Conditions and Restrictions



any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Property as defined in Article I hereof; (c) all property dedicated for recreational use by Declarant or the Association; (d) Property designated as Parks.

Section 13. Costs of Collection. The Association shall be entitled to recover its costs of collection and attorneys' fees from any Owner against whom an assessment must be enforced.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. Establishment of the Architectural Control Committee. There is hereby established an Architectural Control Committee.

Section 2. Duties of and Functions of ACC. The duties, powers and responsibilities of the ACC shall be as follows:

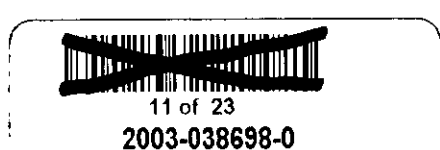
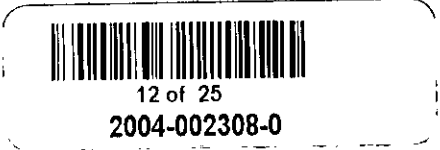
A. The ACC shall consist of three (3) or more persons, two-thirds (2/3) of which shall be designated and appointed by the Declarant and One-third (1/3) by the Board of the Association. After the Turnover date, as defined herein, the ACC shall consist of three or more persons designated and appointed by the Board of Directors. A record of the Members of the ACC shall at all times be kept at the offices of the Association and such information shall be provided to any Owner or prospective purchaser of any Lot or Improved Unit upon request.

Members of the ACC need not be officers, directors or members of the Association, however, the Association shall at all times keep a record of the Members of the ACC which shall be made available to the parties and in the manner provided above.

B. The duties of the ACC shall include the specific approval or disapproval of all architectural, engineering, platting, planning and landscaping aspects of any improvement or development of individual units or buildings as well as the general plan for development of any individual Lot or subdivision, tract or parcel of land within the Properties. The ACC may also, in its sole discretion, impose standards of architectural and landscaping design, building setback lines or the general plan for development, which standards are greater or more stringent than standards prescribed in applicable building, zoning, planning or other local governmental codes.

C. No building, sign, outside lighting, fence, hedge, wall, walk or other structure shall be constructed, erected, removed, or maintained, nor shall any addition to or any change or alteration therein or thereto be made until the plans and specifications showing the nature, kind, shape, height, materials, plans, color scheme and the location of same shall have been submitted to and approved in writing by the ACC. Any change in the outward appearance of any improvement, including but not limited to, repainting the same in a different color, adding decorative sculptures, wrought iron grills or the like, shall also require approval in writing by the ACC before any work is commenced. Disapproval of plans, specifications or location may be based upon any ground, including purely aesthetic considerations, which the ACC, in its sole and uncontrolled discretion, deems sufficient.

D. As part of the application process, two (2) complete sets of plans and specifications Amended and Restated Declaration of Covenants, Conditions and Restrictions Page 11



prepared by an architect or other person found to be qualified by the ACC shall be submitted for approval by written application on such form as may be provided or required by the ACC. In the event the information submitted to the ACC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

E. The ACC shall have the right to refuse to approve any plans and specifications that it deems are unsuitable or undesirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably or capriciously withheld. In approving or disapproving such plans and applications, the ACC shall consider the suitability of the proposed building, improvements, structure or landscaping and materials of which the same are to be built, the site upon which it is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property.

F. Unless specifically excepted by the ACC, all improvements for which approval of the ACC is required under this Declaration shall be completed within (a reasonable time from the date of commencement of said improvements) or within the time set by the ACC in the event that the approval is so conditioned.

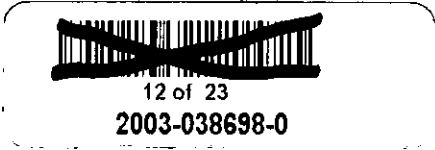
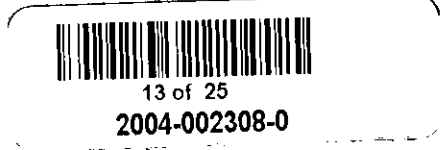
G. In the event the ACC shall fail to specifically approve or disapprove the plans and specifications submitted in final and complete form within thirty (30) days after written request for approval or disapproval such plan and specification shall be deemed disapproved

H. There is specifically reserved unto the ACC the right of entry and inspection upon any Lot for the purpose of determination by the ACC whether there exists any construction of any improvement which violates the terms of any approval by the ACC or the terms of this Declaration or of any other covenants, conditions and restrictions to which its deed or other instrument of conveyance makes reference. The ACC with Board of Director approval is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorneys fees in connection therewith. The Association shall indemnify and hold harmless the ACC from all costs, expenses and liabilities, including attorneys' fees, incurred by virtue of any member of the ACC's service as a member of the ACC.

I. A majority of the ACC may take any action of the committee and may designate a representative to act for it. In the event of death, disability or resignation of any member of the ACC, the appointing entity, either the Board or Declarant, shall designate a successor.

J. The ACC may recommend to the Board of Directors such further rules and regulations as it deems necessary to carry out its function and purposes hereunder, provided all such rules and regulations shall be filed with and made a part of this Association's minutes.

K. The Association, Declarant, the ACC and any officer, employee, director or Member thereof shall not be liable for damages to any person submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications. Every person who submits plans and specifications for approval agrees, by submission of such Amended and Restated Declaration of Covenants, Conditions and Restrictions



plans and specifications, that it will not bring any action or suit against the Association, Declarant or ACC to recover any such damages.

L. If a member of the ACC has a financial interest in any matter subject to a vote by the ACC, such members shall abstain from voting on that matter.

ARTICLE VIII

RESTRICTIONS AND COVENANTS

Section 1. Compliance by Owners: Restrictions and Covenants. Every Owner shall comply with the restrictions and covenants set forth herein and any and all rules and regulations adopted by the Board. The following are the initial Restrictions and Covenants of Settler's Bay which may be amended, modified or added to from time to time as provided in the By-Laws:

A. Residential Use. Except as provided in Exhibit "B", attached hereto and made a part hereof, Settler's Bay, subject to this Declaration, shall be used for single-family residential purposes and related recreational facilities only and for no other purposes. Declarant and any assignee shall be able to build and maintain sales models and offices until such time as the last parcel in Settler's Bay is sold by Declarant or Declarant's assignee. Uses that do not conform to the applicable provisions of the applicable zoning ordinances, if any, will not be permitted.

Any Owner who shall lease his Residential Unit shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles and the By-Laws. The minimum period for any lease is six months.

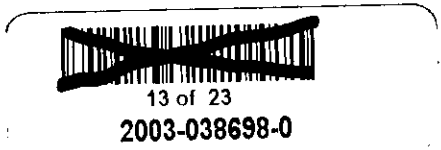
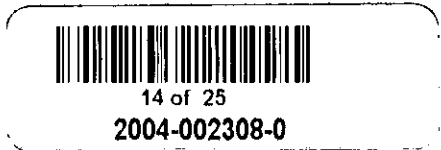
B. Insurance. Nothing shall be done or kept on the Properties which shall increase the rate of insurance on any Lot, any Residential Unit, or the Common Areas without the approval of the Board, nor shall anything be done or kept on the Properties which would result in the cancellation of insurance on any Residential Unit, or any part of the Common Areas or which would be in violation of any law.

C. Temporary Buildings. No house trailer, mobile home, or similar facility or structure shall be placed on any lot except to serve as a single family dwelling or construction office during the construction of a permanent home, and said house or office trailer, mobile home, or similar facility or structure is to be removed upon completion of the permanent dwelling. In no event shall said house trailer, mobile home, or similar facility or structure or succession of such structures remain on any lot for more than twelve (12) months.

D. Trash and Garbage. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on the Properties except building materials during the course of construction of any approved structure; provided, however, that no unnecessary accumulation of scrap, trash, papers or other refuse in connection with such construction activity shall be permitted and all construction sites shall be regularly policed and kept neat and orderly to the extent reasonably possible. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made at such place as will be accessible to persons making such pick-up. At all other times, such containers shall be stored so that they cannot be seen from surrounding property. The ACC, in its discretion, may adopt and promulgate reasonable rules and regulations

Amended and Restated Declaration of Covenants, Conditions and Restrictions

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relating to the size, shape, color and type of containers permitted and the manner of storage of the same. On site disposal of trash and garbage by burying or burning is expressly prohibited.

E. Burial of Pipe and Tanks. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained on the Properties above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No property shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth; provided, however, that nothing contained herein shall prohibit or restrict removal of fill or earth materials to construct or create approved drainage structures or landscaped berms, provided there is approval from the ACC.

F. Nuisance. Nothing shall be done on the Properties that is illegal or that may be or may become an annoyance or nuisance to the neighborhood. In the event of any questions as to what may be or become a nuisance, such questions shall be submitted to the Association for a decision in writing and its decisions shall be final.

G. Weeds and Underbrush. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon the improved and landscaped portions of Properties and no refuse pile or unsightly objects shall be allowed to be placed or permitted to remain anywhere thereon.

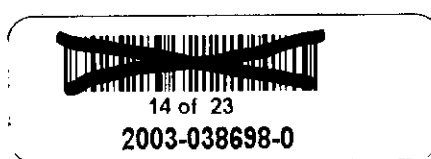
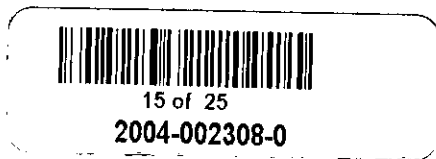
H. Vehicle Parking. No vehicle, bus, boat, or trailer shall be parked in the street in front of any Lot except for construction and repair while a residence or residences are being built or repaired in the immediate vicinity; provided however, the period of construction shall last no longer than twelve (12) months. No unregistered or inoperable motor vehicle or trailer of any kind may be disassembled, serviced, repaired or stored on any street in Settler's Bay or on any of the Properties.

I. Drainage. No changes in elevations of property subject to these restrictions shall be made without the express written approval of the ACC. No established drainage pattern within an area designated as a drainage easement shall be altered without written approval of the Association and, if required, the MatSu Borough.

J. Animals. No horses, cattle, swine, goats, poultry, fowl or any other animals not commonly considered household pets shall be kept on the Properties. Under no circumstances shall any commercial or business enterprises involving the breeding, use, care or treatment of animals be conducted on the Properties. All pets shall be kept on a leash when not on or in the pet owners Lot or Unit and no pet shall be allowed to roam unattended. The Association may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on the Properties.

K. Business. Except as permitted in areas classified as commercial in Exhibit "B", no manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever will be conducted or carried on upon the Properties or in any building or other structure erected thereon, provided that

(1) on any Property, any artist, artisan, craftsman or other business person may pursue his endeavor so long as he also uses such private area for residential purposes, is self-employed



and has no employees working in such private area and does not advertise or offer any product or work to the public upon or from such private area. Any such business person may not create any excessive noise or traffic congestion.

L. Maintenance of Parking Areas, Etc. All setback areas, yards, walkways, Driveways, parking areas and drainage swales shall be maintained and kept in a neat and clean condition, free of refuse and debris.

M. Maintenance of Landscaped Areas. All landscaped areas (to the paved public right-of-way) shall be maintained in live, healthy and growing condition, properly watered and trimmed. Any planting of grass, shrubs or trees which become dead or badly damaged shall be replaced with similar, sound, healthy plant materials.

N. Maintenance of Landscaping to Public Right-of -Way Edge. Any Owner within the Properties that owns or has the maintenance responsibility for property adjoining any public right-of-way shall maintain the landscaping to the public right-of-way regardless of the property boundaries on the plat.

O. Fences. The composition, location and height of fences and walls must be approved by the ACC prior to installation.

P. Trees. The excessive removal of existing trees and shrubbery (as distinguished from brush and undergrowth) from any Lot shall not be permitted (except within the foundation perimeter line for the dwelling) unless landscaping of an equivalent or higher quality is substituted therefor and the prior approval of the ACC is obtained.

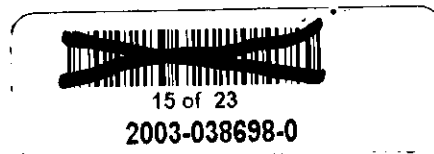
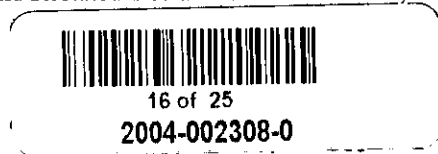
Q. Signs. No sign of any kind shall be displayed to the public view on any Lot or Residential Unit, except those that shall be in compliance with the guidelines established by the ACC and conforming to applicable MatSu Borough codes and ordinances, if any. The ACC shall have the right to establish guidelines so as to require a uniform standard for signs in the properties. Notwithstanding anything contained herein to the contrary, any Lot Owner shall be entitled to display to the public view on any Lot or Residential Unit, signs with a maximum dimension of six (6) square feet for the purpose of marketing and sales of such Lot or Residential Unit.

R. Lighting. No exterior lighting fixtures shall be installed on any Residential Unit without adequate and proper shielding of fixtures. No lighting fixture shall be installed that may be or become an annoyance or a nuisance to the other residents of Residential Units.

AA. Time Shares. No Lot or Residential Unit shall be owned or used in multiple or time share ownership.

BB. Size and Construction of Dwellings and, Garages.

Section 1. Lots One through Twenty-Six (1-26) in Block Seven (7), Block Sixteen (16) and Block Twenty-six (26) of Unit Two (2), Settler's Bay, shall contain a minimum of 1750 square feet of living area and shall have paved driveways and a two car garage either



attached to or detached from the structure which is not considered part of the living area.

Each single family residence to be constructed in Block One (1), Block Two (2), Block Three (3) and Block Four (4) of Unit One (1) shall contain a minimum of 1200 square feet of living area and shall contain a 1 car garage.

Block 6, Lots Twenty-seven (27) through Sixty-nine (27-69 in Block Seven (7), Block Eight through Fifteen (8-15), and Block Seventeen through Twenty-five (17-25) of Unit Two (2) Settler's Bay shall contain a minimum of 1,400 square feet of living area. Each and every dwelling must have a paved driveway and an enclosed garage, either attached to or detached from the main structure, capable of housing at least two large automobiles.

Block 6, Lots One (1) through (14) shall contain a minimum of 1,000 square feet of living area.

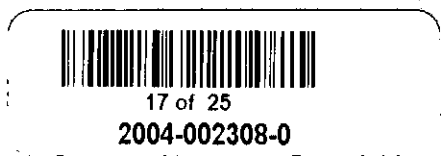
On multi-family dwellings, garages and paved driveways are required and the minimum size of each living unit it to be 800 square feet.

CC. Oil, Gas, Mineral, Mining and Excavation Operations. No oil, gas, mineral, mining or excavation operations of any kind or character shall be permitted upon any Lot or area of the Properties.

Section 2. Liability for Damage to Common Property. Each Owner shall be legally liable to the Association for all damages to the Common Property or to any improvements thereof or thereto, including, but not limited to, the buildings, recreational facilities and landscaping, caused by such Owner, his pet(s) his licensee(s) or any occupant of such Owners Residential Lot or Unit, as such liability may be determined under Alaska Law.

Section 3. Enforcement. Failure of the Owner to comply with the restrictions, covenants or rules and regulations set forth herein shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof, including costs and attorneys fees incurred in bringing such actions, and if necessary, costs and attorneys fees for appellate review. The Association shall have the right to enforce the provisions of this Declaration and to suspend voting rights and use of Common Areas for any Owner violating the provisions hereof for a period of time which is the longer of sixty (60) days or the term of continued violation.

Section 4. Fines. In addition to all other remedies, in the sole discretion of the Board of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, tenants or employees to comply with any covenant, restriction, rule or regulation, contained herein or promulgated pursuant to these Declarations provided the following procedures are adhered to:



A. Notice. The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be date and time of the next Board meeting at which time the Owner may, if he so desires, present reasons why penalty(ies) should not be imposed.

B. Hearing. The noncompliance shall be presented to the Board after which time the Board shall hear reasons why penalties should not be imposed. A written decision of the Board shall be submitted to the Owner by not later than twenty-one (21) days after the Boards meeting.

C. Penalties. The Board may impose fines in the form of individual assessments against the Residential Unit or Lot owned by the Owner as follows:

- (1) first noncompliance or violation: a fine not in excess of One Hundred and No/100 Dollars (\$100.00);
- (2) second noncompliance or violation: a fine not in excess of Five Hundred and No/100 Dollars (\$500.00);
- (3) third and subsequent noncompliance, or violation or violations that are of a continuing nature: a fine not in excess of Twenty-five and 00/100ths Dollars (\$25.00) for each day of continued violation or noncompliance.

D. Payment of Penalties. Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the penalties.

E. Collection of Fines. Fines shall be treated as an assessment otherwise due to the Association, and as such will be a personal obligation of the Owner(s) and a lien against the Owner'(s) Lot.

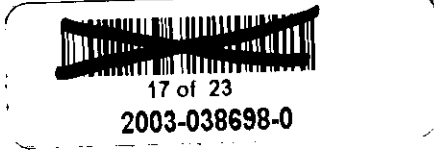
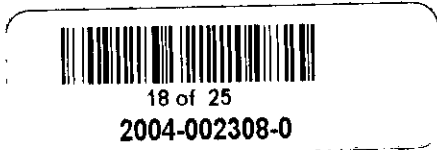
F. Application of Penalties. All monies received from fines shall be allocated as directed by the Board.

G. Nonexclusive Remedy. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled, including without limitation, injunctive relief.

ARTICLE IX

AMENDMENTS

These Covenants, Conditions and Restrictions may be amended, modified or revoked in any respect from time to time by Declarant prior to the time of the first conveyance of a Common Area to the Owners Association. Subsequent to that time, the Covenants Conditions and Restrictions may be amended, modified or revoked by a vote of the members of the Association who own 75% of the lots in the project. Declarant's rights as Declarant will end with the first transfer of Common Area to the Association. The date of first transfer of Common Area to the Association shall also be known as the Turnover Date.



ARTICLE X

DAMAGE, DESTRUCTION AND CONDEMNATION OF COMMON PROPERTY

Section 1. Casualty. If any portion of the Common Area is damaged or destroyed by fire or other casualty, then:

(a) If the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year during which the repairs or rebuilding is necessitated, the Board shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications therefore.

ARTICLE XI

DAMAGE, DESTRUCTION AND
CONDEMNATION OF RESIDENTIAL UNITS

Section 1. Damage and Destruction. In the event of damage or destruction to any Residential Unit, the Owner thereof shall reconstruct the same as soon as reasonably practical and substantially in accordance with the original plans and specifications therefore; provided, however, that any such Owner may reconstruct or repair the same pursuant to new or changed plans and specifications after obtaining the written approval of the ACC as hereinabove provided. In the event the Board fails to approve or disapprove such changed plans and specifications within thirty (30) days of the receipt thereof, they shall be deemed to have been disapproved.

ARTICLE XII

SPECIAL PROVISIONS

Section 1: Fires. There shall be no exterior fires whatsoever except barbeque fires contained within receptacles made for that particular purpose, except as follows:

A. During the months of October 1 to April 1, exterior fires are permitted solely for the purpose of yard clean-up and only upon receipt of a burn permit from the Mat-Su Borough. No fires shall be allowed during periods determined by the Mat-Su Borough to be "high fire hazard."

Section 2: Commercial Vehicles.

A. No commercial vehicles or similar construction equipment shall be parked, placed, erected or maintained on any lot for any purpose except during construction and except where a resident drives a commercial vehicle to and from his work location at least twice weekly.

B. Extra vehicles, inoperable or otherwise, that are not used at least monthly shall be kept in a garage or other structure suitable for such purpose. This includes storage of campers, boats, recreational vehicles, snow machines and trailers or any other vehicles or machinery. Proposals to store operational campers, motor homes and boats, only, alongside garages or other structures will be evaluated by the ACC on a case-by-case basis provided that such proposals contain, at a minimum, the construction of a suitable pad which shall either be paved or shall contain at least



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4 inches of gravel fill. The purpose of this provision is to keep unsightly equipment, whether frequently used or unused, out of sight to the greatest extent possible.

Section 3. Noise Control.

A. Any motorized vehicles or mechanical equipment which create annoying or undesirable noises or are operated in an unsafe manner shall not be operated within the subdivision.

B. Excessive animal noise is prohibited at any time of day or night.

C. Outside construction activity is prohibited between the hours of 9:00 P.M. and 7:00 A.M.

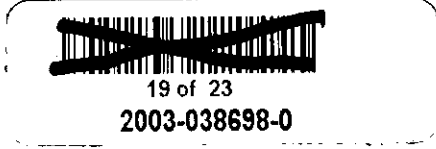
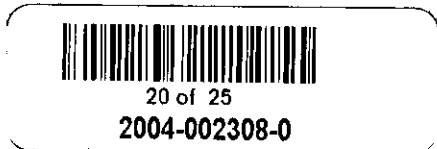
Section 4. Recreation Trails. The perimeter of the subdivision designated as a pedestrian easement on the recorded plat map(s) is dedicated to the building and use of cross country ski trails and hiking trails and shall not be used by motorized vehicles.

Section 5. Firearms or Explosive Devices. The discharge of firearms and any other explosive device in Settler's Bay is strictly prohibited.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) 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 with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year period for an additional ten (10) year period; provided, however, that this Declaration may be terminated and released at any time upon the vote of, two-thirds (2/3) of the votes cast by Members at a duly held meeting of Members. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least sixty (60) days advance of said meeting. In the event that the Association votes 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 to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of Amended and Restated Declaration of Covenants, Conditions and Restrictions



votes cast against such resolution. The certificate shall be recorded in the Records of the Palmer Recording District, Third Judicial District, State of Alaska, along with a copy of the resolution itself, 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 by Members. After the Turnover date this Declaration may be amended at a regular or special meeting of the Members by a vote of at least sixty-seven percent (67%) of the total voting power of the Members of the Association. Prior to the Turnover date any such amendment shall require the written approval of the Declarant as provided in Article III, Section 4, above.

Section 3. Special Exceptions and Variations. Unless the written consent of the Association is first obtained, no Owner shall file a request for zoning variations, special exceptions or zoning changes affecting or relating to land within the Properties.

Section 4. Power of Attorney. The Association is hereby granted an irrevocable power of attorney to represent the Owners in any proceedings, negotiations, settlements or agreements relating to the damage, destruction or condemnation of the Common Property.

Section 5. Enforcement. Enforcement of the covenants, conditions and restrictions contained in this Declaration shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors or assigns, or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and to enforce any lien created by this Declaration. Failure by the Association or any Owner to enforce any covenant, condition 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 6. Severability. Should any covenant, condition 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 7. Interpretation. The Board shall have the right except as limited by any other provisions of this Declaration or the By-Laws to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and its good faith determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best tend toward furthering the interests of the Owners in creating and maintaining an attractive healthful, pleasant development.

Section 8. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board in the



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manner provided for in the By-Laws, unless the terms of this instrument provide otherwise.

Section 9. Termination of Declaration. Should the Members of the Association vote not to renew and extend this Declaration as provided for herein, all Common Property owned by the Association at such time shall be transferred to another association or appropriate public agency having similar purposes. If no other association or agency will accept such property then it will conveyed to a trustee appointed by a Court of competent jurisdiction, which trustee shall sell the Common Property free and clear of the limitations imposed hereby, upon terms established by such Court. That portion of the Open Space or Common Property consisting of the Surface Water Management System cannot be altered, changed or sold separate from the lands it serves. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Property, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of the Common Property. The excess of proceeds, if any, from Common Property shall be distributed among Owners in a proportion which is equal to the proportionate shares of such Owners in Common Expenses.

Section 10. Execution of Documents. To the extent that any documents are from time to time required of the Owners, the Board, through its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents after approval thereof by the requisite number of Directors at a duly called meeting, and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint the Board as their proper and legal attorneys-in-fact for such purpose. Such appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section shall recite that it is made pursuant to this Section.

Section 11. Singular, Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

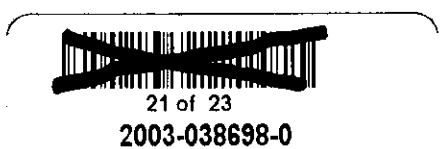
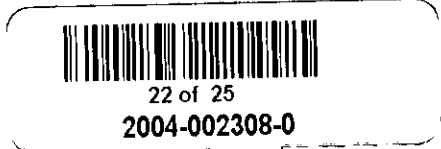
Section 12. Constructions. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Properties.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this 22nd day of December, 2003.

Declarant: SETTLER'S BAY DEVELOPMENT COMPANY, INC.

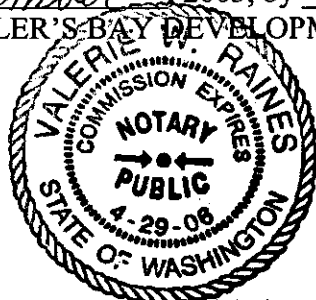
By Justin Syu
Its Vice President

STATE OF WASHINGTON)



WHATCOM COUNTY)
) ss.
)

The foregoing instrument was acknowledged before me this 22nd day of December, 2003, by Jonathan Syre, Vice President of SETTLER'S BAY DEVELOPMENT COMPANY, INC., on behalf of the corporation.



Valerie W. Raines
Notary Public in and for Washington
My commission expires: 042906

F:\378\02\amended and restated declaration of covenants, conditions & restrictions8

This instrument is being recorded by McKinley Title & Trust, Inc. as an accommodation only. It has not been examined to its effect, if any, on the title of the estate herein.



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EXHIBIT "A"

In the Palmer Recording District In the Palmer Recording District

NOTICE BY SETTLERS BAY OWNERS ASSOCIATION, INC.

Settlers Bay Owners Association, Inc., (hereafter the "Association") is the Association of Lot Owners who are members pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions, recorded October 25, 1996, in Book 870, at Page 814, Palmer Recording District. The Association is charged by the Declaration with the assessment of Lot Owners and the regulation of the Lots that make up Settlers Bay Subdivision, Units 1 and 2, under the land use classification and restrictions and architectural control requirements of the Declaration.

At the time this notice is given, Owners of the following lots form the Settlers Bay Owners Association and are subject to regulation and assessment by the Association:

Lots 1-35, Block 1; Lots 1-47, Block 2; Lots 1-39, Block 3; Lots 1-17, Block 4; Settler's Bay Subdivision, Unit No. 1, according to Plat No. 75-61, Palmer Recording District, Third Judicial District, State of Alaska;

Lots 1-14, Block 6; Lots 1-37, 42-49 and 52-69, Block 7; Lots 1-17, Block 8; Lots 1-63, Block 9; Lots 1-51, Block 11; Lots 1-18, Block 12; Lots 1-47, Block 13; Lots 1-41, Block 14; Lots 1-6, Block 15; Lots 1-11, Block 16; Lots 1-27, Block 17; Lots 1-33, Block 18; Lots 1-16, Block 19; Lots 1-38, Block 20; Lots 1-24, Block 21; Lots 1-43, Block 22; Lots 1-31, Block 23; Lots 1-51, Block 24; Lots 1-21, Block 25; Lots 1-23, Block 26, Settlers Bay Subdivision, Unit No. 2, according to Plat No. 77-17, Palmer Recording District, Third Judicial District, State of Alaska; and

Lots 1-5, Block H; Lots 1-8, Block I, Settlers Bay Subdivision, Unit No. 2, according to Plat No. Plat 77-18, Palmer Recording District, Third Judicial District, State of Alaska.

The Association is also charged by the Declaration with maintenance of any Common Area tracts conveyed to it by Declarant. At the time this notice is given, however, no Common Area tracts have been conveyed to the Association.



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Exhibit "B"

General and Strip Commercial Business District. Lot Thirty-five (35), Block One (1), Lots One (1), Two (2), and Lots Twenty-six through Forty-seven (26-47) of Block Two (2), Unit One (1). Lots One through Four (1-4) and Lots Twenty-one through Twenty-eight (21-28) of Block Three (3), Unit One (1). Lots Six through Seventeen (6-17) of Block Four (4), Unit One (1). Additionally, Lots Twenty-one through Thirty-four (21-34), Block Two (2), Unit One (1) may be used as residential or commercial. Except as noted, Lots of this classification are intended specifically for those areas surrounding intersections where personal services, conveniences, goods and are desirable and appropriate land uses.

(a) Commercial means personal services, conveniences, goods, multi-family housing and any other use which generates profits. Lots of this classification are subject to the following:

(1) Any lot used or designated for commercial use shall not be used so as to permit excessive noise or smoke and no unsightly aggregation of commercial equipment shall be permitted. "Excessive" is defined for these purposes as a degree exceeding that generated by uses permitted in the district in their customary manner of operation or to a degree injurious to the public health, safety, welfare or convenience.

(2) Buildings shall be set back a minimum of twenty-five (25) feet from front lot lines and twenty (20) feet from rear lot lines and a minimum of ten (10) feet from side lot lines, except that corner lots shall have building set-back of fifteen (15) feet from the street side lot line.

(3) No house trailer, mobile home or similar facility or structure shall be placed on any lot.

(4) No repair, wrecking or equipment salvage yard operations will be permitted.



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