

**DECLARATION OF
RIDGEVIEW CONDOMINIUMS**

AFTER RECORDATION RETURN TO:

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**DECLARATION FOR
RIDGEVIEW CONDOMINIUMS**

Declarant, Rooftop Properties, LLC, a Utah limited liability company with an office at, and a mailing address of _____, does hereby submit real property in, Alaska, to the provisions of the Uniform Common Interest Ownership Act ("UCIOA"), Title 34, Chapter 8, of the Alaska Statutes, for the purpose of creating Ridgeview Condominiums, and making the Improvements shown in the Plat and Plans. Ridgeview Condominiums is located entirely within the Juneau Recording District. The property being submitted is described as:

{ LEGAL DESCRIPTION TO BE INSERTED }

Rooftop Properties, LLC., declares that the Units created by this Declaration and shown on the unit survey map filed under Plat No. _____ shall be held and conveyed subject to the following terms, covenants, conditions, and restrictions. Ridgeview Condominiums is a site condominium development. Homes may be built within the Units in Ridgeview Condominiums, and, as a result, no floor plans for condominium units are being filed with the Plans.

**ARTICLE I.
Definitions.**

In the Documents, the following words and phrases shall have the following meanings:

Section 1.1. Act. The Uniform Common Interest Ownership Act, AS 34.08 of the Alaska Statutes, as it may be amended from time to time.

Section 1.2. Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability, and votes in the Association allocated to Units in the Common Interest Community. The Allocated Interests are described in Article VIII of this Declaration and shown on Exhibit I.

Section 1.3. Association. Ridgeview Condominium Association, a non-profit corporation organized under Title 10, Chapter 20, of the statutes of the State of Alaska. It is the Association of Unit Owners pursuant to Section 34.08.310 of the Act.

Section 1.4. Bylaws. The Bylaws of the Association, as they may be amended from time to time. Neither such Bylaws nor any amendments to such Bylaws need be recorded in the property records.

Section 1.5. Common Elements. Each portion of the Common Interest Community other than a Unit.

Section 1.6. Common Expenses. The expenses or financial liabilities for the operation of the Common Interest Community. These include:

- (a) Expenses of administration, maintenance, repair, or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act;
- (c) Expenses agreed upon as Common Expenses by the Association; and
- (d) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement, or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 1.7. Common Interest Community. The real property described in the Introduction, subject to the Declaration of Ridgeview Condominiums.

Section 1.8. Condominium. A Common Interest Community in which portions of the real estate are designated for separate ownership, the remainder of the real estate is designated for common ownership solely by the owners of those portions, and the undivided interests in the Common Elements are vested in the Unit Owners.

Section 1.9. Declarant. A person or a group of persons acting in concert who, as part of a common promotional plan, offer to dispose of its interest in a unit not previously disposed of, or who reserves or succeeds to a special declarant right; in this case, Rooftop Properties, LLC.

Section 1.10. Declaration. This document, including any amendments.

Section 1.11. Development Rights. The rights reserved by the Declarant under Article VII of this Declaration to create Units, Common Elements, and Limited Common Elements within the Common Interest Community, and to withdraw property from the Common Interest Community.

Section 1.12. Director. A member of the Executive Board.

Section 1.13. Documents. The Declaration, Plat and Plans recorded and filed pursuant to the provisions of the Act, the Bylaws, and the Rules as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

Section 1.14. Eligible Insurer. An insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit. Such notice shall be deemed to include a request that the eligible insurer be given the notices and other rights described in Article XVI.

Section 1.15. Eligible Mortgagee. The holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address, and that it holds a first Security Interest in a Unit. Such notice shall be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article XVI.

Section 1.16. Executive Board. The board of directors of the Association.

Section 1.17. Improvements. Any construction, structure, fixture or facilities existing or to be constructed on the land included in the Common Interest Community, including but not limited to, buildings, trees and shrubbery planted by the Declarant, a Unit Owner or the Association, paving, utility wires, pipes, and light poles.

Section 1.18. Majority or Majority of Unit Owners. The owners of more than 50% of the votes in the Association.

Section 1.19. Manager. A person, firm, or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.20. Notice and Comment. The right of a Unit Owner to receive notice of an action proposed to be taken by or on the behalf of the Association, and the right to comment thereon. The procedures for Notice, Comment, and Hearing are set forth in Article XXII of this Declaration.

Section 1.21. Notice and Hearing. The right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice, Comment, and Hearing are set forth in Article XXII of this Declaration.

Section 1.22. Party Wall. The wall or walls separating two homes abutting each other on the side of the Unit where there is no side yard setback required. The rights and responsibilities regarding party walls are described in Article XXVI.

Section 1.23. Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

Section 1.24. Plans. The survey map filed under Plat No. _____, Records of the Juneau Recording District, Third Judicial District, State of Alaska, as it may be amended from time to time.

Section 1.25. Plat. The plat of Ridgeview Condominium Subdivision, according to Plat No. _____, filed in the Juneau Recording District, Third Judicial District, State of Alaska, as it may be amended.

Section 1.26. Property. The land, all Improvements, easements, rights, and appurtenances, which have been submitted to the provisions of the Act by this Declaration.

Section 1.27. Public Offering Statement. The current document prepared pursuant to Section 34.08.530 of the Act as it may be amended from time to time, and provided to purchasers prior to the time of execution of a purchase agreement.

Section 1.28. Rules. Rules for the use and occupancy of Units and Common Elements and for the conduct of persons within the Common Interest Community, adopted by the Executive Board pursuant to this Declaration.

Section 1.29. Security Interest. An interest in real estate or personal property created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.30. Special Declarant Rights. The rights as defined in AS 34.08.990(30), reserved for the benefit of a Declarant to:

- (a) complete Improvements indicated on plats and Plans filed with the Declaration;
- (b) exercise any Development Right;
- (c) maintain sales offices, management offices, signs advertising the Common Interest Community, and models;
- (d) use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community;
- (e) appoint or remove an officer of the Association or any Executive Board member during any period of Declarant control;
- (f) make the Common Interest Community subject to a master association;
and
- (g) merge or consolidate the Common Interest Community with another Common Interest Community of the same form of ownership.

Special Declarant Rights are detailed in Article VII.

Section 1.31. Trustee. The entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

Section 1.32. Unit. A physical portion of the Common Interest Community designated for separate ownership or occupancy as shown on the Plans, the boundaries of which are described in Section 4.2 of this Declaration.

Section 1.33. Unit Owner. The Declarant or other Person who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the initial owner of any Unit created by this Declaration.

ARTICLE II.

Name and Type of Common Interest Community and Association.

Section 2.1. Common Interest Community. The name of the Common Interest Community

is Ridgeview Condominiums. Ridgeview Condominiums is a condominium form of common interest community.

Section 2.2. Association Name. The name of the Association is Ridgeview Condominium Association.

ARTICLE III. Description of Land.

The entire Common Interest Community is situated in the Juneau Recording District, Third Judicial District, State of Alaska, and is located on land described in the Introduction.

ARTICLE IV. Units and Boundaries.

Section 4.1. Maximum Number of Units. The Common Interest Community upon creation contains _____ () Units. The Declarant reserves the right to create up to a total of _____ () Units, as shown on the unit survey filed under Plat No. _____.

Section 4.2. Boundaries. Boundaries of each Unit created by the Declaration are shown graphically on Exhibit 2 and on the unit survey filed under Plat No. _____. At the time of sale, a Unit may include an existing building. The boundaries of the Units are described as follows:

(a) Upper Boundary: The horizontal plane _____ () feet above and parallel to the lower boundary and extending to the vertical perimeter boundaries.

(b) Lower Boundary: The horizontal plane extending to the vertical perimeter boundaries at an elevation _____ () feet below the average elevation of the common access drive fronting the Unit at the boundary between the Unit and the common access drive.

(c) Vertical Perimeter Boundaries: The vertical planes extending between the upper and lower boundaries and located by reference to the measurements to the property line shown on the survey map filed under Plat No. _____.

(d) Inclusions: Each Unit will include the spaces and Improvements lying within the boundaries described in Sections 4.2(a), 4.2(b), and 4.2(c) above, and any man-made improvements serving only the Unit.

(e) Exclusions: The land lying directly beneath the lower boundary of the Unit, and man-made improvements, if any, below the lower boundary of the Unit that serve more than one Unit.

(f) Inconsistency with Plans: If this definition is inconsistent with the Plans, then this definition will control.

Section 4.3. Unit Areas. Unit areas are listed in Exhibit 2.

Section 4.4. Unit Numbers. The Unit numbers are listed in Exhibits 1 and 2.

**ARTICLE V.
Common Elements.**

Section 5.1. Common Elements. The Common Elements include all of the area within the Common Interest Community other than the Units. In Ridgeview Condominiums, the Common Elements include, among other things, (but are not limited to):

- (a) All common access drives within the boundaries of the Common Interest Community;
- (b) all water and sewer lines serving Units in the Common Interest Community from the point of connection to municipal facilities;
- (c) the vacant land as shown on the Plat;
- (d) any fencing or berms constructed by Declarant or the Association at the perimeter of the Common Interest Community;
- (e) any space for community mailboxes in the Common Interest Community;
- (f) designated guest parking areas; and
- (g) the access easement for the Common Interest Community (described as a part of the property description in the Introduction to this Declaration).

**ARTICLE VI.
Maintenance, Repair, and Replacement.**

Section 6.1. Common Elements. The Association shall maintain, repair, and replace all of the Common Elements of Ridgeview Condominiums. It should be noted that the obligation to maintain the Common Elements includes asphalt maintenance, snow maintenance, and snow hauling from all common access drives in Ridgeview Condominiums.

Section 6.2. Units. Each Unit Owner shall maintain, repair, and replace, at his or her own expense, all portions of his or her Unit, including any structure built within the Unit, driveways within the Unit and any fences built by Unit Owners. Rights and responsibilities regarding the maintenance and repair of Party Walls, roofs, and fences are contained in Article XXVI. If a Unit Owner fails to maintain and repair his or her own Unit, including the yard, fences, pavement, or structures, to the standards established by the Association's Rules, the Association may, after Notice and Hearing, repair or maintain the Unit as needed to bring it up to Association standards and assess the Unit Owner for the expenses of such repairs or maintenance as provided in Section 6.4.

Section 6.3. Access. Any person authorized by the Executive Board has the right to access all portions of the Property for the purpose of carrying out Section 6.2 of this Declaration, or to correct any condition threatening a Unit or the Common Elements. Such persons may also access all portions of the Property to read, repair, or replace utility meters and related pipes, valves, wires, and equipment, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of

emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

Section 6.4. Allocation of Costs of Repairs and Maintenance. Each Unit Owner will reimburse the Association for any costs incurred for repairs and maintenance performed by the Association under the provisions of Section 6.2. In addition, each Unit Owner will reimburse the Association for any costs, including insurance deductibles, incurred by the Association due to damage to any Unit or to the Common Elements, to the extent that such damages or costs were caused intentionally, negligently, or by the Unit Owner's failure to properly maintain, repair, or make replacements to his or her Unit. Such expense will be assessed following Notice and Hearing. The Association will be responsible for damage to Units caused intentionally, negligently, or by its failure to maintain, repair, or make replacements to the Common Elements.

ARTICLE VII.

Development Rights and Other Special Declarant Rights.

Section 7.1. Reservation of Development Rights. The Declarant reserves the following Development Rights:

(a) The right by amendment to add Units and Common Elements in the location shown as "Development Rights Reserved" on the Plans, and which is identified in Exhibit 2.

(b) The right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated "Development Rights Reserved" on the Plat for the purpose of furnishing utility and other services to buildings and Improvements to be constructed on the land designated "Development Rights Reserved" on the Plat. The Declarant also reserves the right to grant easements to public utility companies and to convey Improvements within those easements anywhere in the Common Interest Community for the above-mentioned purposes. If the Declarant grants any such easements, Exhibits 2 and 3 will be amended to include reference to the recorded easement.

(c) The right to withdraw property identified as "Developer Rights Reserved" on the Plans.

Section 7.2. Limitations on Development Rights. The Development Rights reserved in Section 7.1 are limited as follows:

(a) The Development Rights may be exercised at any time, but not more than seven (7) years after the recording of the initial Declaration. If exercised more than five (5) years after recording of the original Declaration, consent of fifty-one percent (51%) of the Eligible Mortgagees shall be required pursuant to Section 16.4.

(b) The quality of construction of any buildings and improvements to be created on the property shall be consistent with the quality of those constructed pursuant to this Declaration as initially recorded.

(c) All Units and Common Elements created pursuant to the Development Rights will be restricted to residential use in the same manner and to the same extent as the Units created under this Declaration as initially recorded.

(d) No Development Rights may be exercised unless approved pursuant to Section 16.5 of this Declaration.

Section 7.3. Phasing of Development Rights. No assurances are made by the Declarant regarding the portions of the areas shown as "Development Rights Reserved" on the Plans and Plat as to the portions where the Declarant will exercise its Development Rights or the order in which such portions, or all of the areas, will be developed. The exercise of Development Rights as to some portions will not obligate the Declarant to exercise them as to other portions.

Section 7.4. Special Declarant Rights. The Declarant reserves the following Special Declarant Rights to the maximum extent permitted by law which may be exercised, where applicable, anywhere within the Common Interest Community:

(a) To complete Improvements indicated on Plats and Plans filed with this Declaration;

(b) To exercise a Development Right reserved in the Declaration;

(c) To maintain sales offices, management offices, signs advertising the Common Interest Community, and models;

(d) To use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community; and

(e) To appoint or remove an officer of the Association or an Executive Board member during a period of Declarant control subject to the provisions of Section 7.9 of this Declaration.

Section 7.5. Models, Sales Offices, and Management Offices. As long as the Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives, and employees

may maintain Units owned by the Declarant or any portion of the Common Elements as model Units or as a sales office or management office. Declarant may delegate this authority to dealers who purchase Units for resale.

Section 7.6. Construction; Declarant's Easement. The Declarant reserves the right to perform warranty work, repair and construction work, and to store materials in secure areas in Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has such an easement through Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in the Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, municipalities, the State, or upland owners to fulfill the plan of development.

Section 7.7. Signs and Marketing. The Declarant reserves the right to post signs and displays in the Units or Common Elements to promote sales of Units, and to conduct general sales activities, in a manner as will not unreasonably disturb the rights of Unit Owners.

Section 7.8. Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction, and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove from the Property, promptly after the sale of the last Unit, any and all goods and Improvements used in development, marketing, and construction, whether or not they have become fixtures.

Section 7.9. Declarant Control of the Association.

(a) Subject to Subsection 7.9(b): There shall be a period of Declarant control of the Association, during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Executive Board. The period of Declarant control terminates no later than the earlier of:

(i) Sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than the Declarant; or

(ii) Two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business; or

(iii) Two (2) years after any right to add new Units was last exercised; or

(iv) Five (5) years after the first Unit is conveyed to a Unit Owner other than the Declarant.

(b) The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but in that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by Declarant, be approved by the Declarant before they become effective.

(c) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of

the Units that may be created to Unit Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant.

(d) Not later than the termination of any period of Declarant control, the Unit Owners shall elect an Executive Board of at least three (3) members, all of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers take office upon election.

(e) Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice under Section 34.08.390 of the Act, the Unit Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section 7.10. Limitations on Special Declarant Rights. Unless sooner terminated by an amendment to this Declaration executed and recorded by the Declarant, any Special Declarant Right (except for Development Rights) may be exercised by the Declarant so long as:

(a) Declarant is obligated under any warranty or obligation; or

(b) Declarant holds a Development Right to create additional Units or Common Elements, or

(c) Declarant owns any Unit or any Security Interest in any Units; or

(d) Declarant's Special Declarant Rights expire upon the earliest date on which one of the conditions described in (a)-(c) is no longer operative, or for ten (10) years after recording the original Declaration, whichever is sooner. Earlier termination of certain rights may occur by statute.

Section 7.11. Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

ARTICLE VIII.
Allocated Interests.

Section 8.1. Allocation of Interests. The table showing Unit numbers, addresses, and their Allocated Interests is attached as Exhibit 1. These interests have been allocated in accordance with the formulas set out in this Article VIII. These formulas are to be used in reallocating interests if Units are added to or deleted from the Common Interest Community. The percentage of undivided interest in the Common Elements assigned to each Unit for all purposes voting and the assessment of liability for Common Expenses shall be in accordance with Exhibit 1.

Section 8.2. Formulas for the Allocation of Interests. The Interests allocated to each Unit have been calculated on the following formulas:

(a) Undivided Interest in the Common Elements. Each Unit in the Common Interest Community shall have an equal percentage of the undivided interest in the Common Elements.

(b) Liability for the Common Expenses. Each Unit in the Common Interest Community shall have an equal percentage of liability for Common Expenses. As a result, the percentage of liability for Common Expenses for each unit is determined by dividing the total number of Units into 100. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article XVII of this Declaration.

(c) Votes. Each Unit in the Common Interest Community shall have one equal Vote. Any specified percentage, portion, or fraction of Unit Owners, unless otherwise stated in the Documents, means the specified percentage, portion, or fraction of all of the votes as allocated in Exhibit 1.

Section 8.3. Assignment of Allocated Interests Upon Creation of Units Pursuant to Exercise of Development Rights. The effective date for assigning Allocated Interests to Units created pursuant to Section 8.1 of this Declaration shall be the date on which the amendment creating the Units is recorded in the records of the Juneau Recording District.

ARTICLE IX.
Restrictions on Use, Alienation, and Occupancy.

Section 9.1. Use and Occupancy Restrictions. Subject to the Special Declarant Rights reserved under Article VII, the following use restrictions apply to all Units and to the Common Elements:

(a) Each Unit is restricted to residential use as a single-family residential structure, including home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, trash, or storage. No sign indicating commercial or professional uses may be displayed outside a Unit. A single-family residence is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its

occupants, cooking and eating with a common kitchen and dining area. Units must be used

and occupied at all times in accordance with all applicable local, state, and federal laws and with the Plat and Plans for Ridgeview Condominiums.

(b) Unit garages are to be used primarily for the storage of vehicles and may not be used as living space. The intent of this paragraph is that Unit Owners use their garages to store their vehicles, and that any vehicles not stored in garages or driveways (including boats, campers, ATVs, snowmachines, RVs, etc.) be regularly stored by Unit Owners somewhere other than their Unit or the Common Elements. Commercial vehicles, RVs, and campers which would not fit inside a Unit garage may not be parked anywhere on the Property for more than six (6) hours in any twenty-four (24) hour period. Commercial vehicles may be parked on the Property for more than six (6) hours in any twenty-four (24) hour period if necessary to make a delivery or complete construction. There is no parking permitted on the common access drives within Ridgeview.

(c) All Unit Owners will maintain their Units in a clean and well-maintained condition. Trash may not be stored outdoors. The Executive Board has the power to regulate the exterior storage of any type of material to preserve the appearance of the Property.

(d) No automotive repairs may be conducted outdoors anywhere on the Property.

(e) No animals, livestock, or poultry can be kept in any Unit, except that domestic dogs, cats, fish, and birds may be kept as household pets within the Unit, provided they are not kept, bred, or raised for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall limit the total number of pets to four (4), no more than two (2) of which shall be dogs or cats. The Executive Board may, after Notice and Hearing, limit the sizes and types of dogs, if sizes and types of dogs become a problem for the Association, and may make exceptions as to the types of pets permitted on a case-by-case basis. Further, the Executive Board may prohibit the ownership of any animal that constitutes a nuisance to any other Unit Owner. Dogs and cats belonging to Unit Owners, occupants of Units, or their licensees or invitees, must be kept within the Unit except that they may be taken out of the Unit on a leash held by a person capable of controlling the animal. Should any dog or cat be found outside of the Unit, other than on a leash being held by a person capable of controlling the animal, the animal may be removed by Declarant or any person authorized by the Executive Board to remove the dog or cat from the Property. The dog or cat removed shall be taken to the municipal animal shelter and, if its owner is known, the Association shall notify the owner of the animal's location. The owner of any pet visiting or residing on the Property shall be absolutely liable to all other Unit Owners, their families, guests, and invitees for any damage to persons or property caused by the pet. Owners of pets are responsible for removing their pets' waste from the Units and the Common Elements of the Project.

(f) No nuisances shall be allowed on the Property, nor shall any use be made or practice be maintained by any Unit Owner or tenant of a Unit Owner that shall interfere with the quiet enjoyment of the Property by other Unit Owners and residents. The Executive Board may further define what constitutes a nuisance in the rules of the Association.

(g) The use of Units and Common Elements is further subject to the Bylaws and the Rules of the Association.

Section 9.2. Restrictions on Alienation. A Unit may not be conveyed pursuant to a time-sharing plan. A Unit may not be leased or rented for a term of less than thirty (30) days. All leases and rental agreements shall be in writing and subject to the requirements of the Documents. A copy of all leases or rental agreements must be given to the Association by the Unit Owner. All leases and rental agreements must contain a provision that gives the Association the power to enforce a violation of the Documents against tenant so long as the Association first gives notice to the Unit Owner of its intent do so and gives Unit Owner a reasonable opportunity to remedy the violation. The Association's right to enforce violations of the Documents against a tenant does not limit the Association's right to take action against the Unit Owner for the tenant's violations of provisions of the Documents. This Declaration does not impose any right of first refusal or similar restriction on a Unit Owner's right to sell or convey a Unit.

Section 9.3. Structure Setbacks from Unit Perimeter Boundaries. Houses constructed within the Units may be attached to each other along one Unit boundary. No structure, except a fence, may be constructed within a setback area defined on the Plat. With the exception of the provision contained in the second sentence of this section, the structure setbacks along the side and rear Unit boundaries shall be as shown on the Plan. Ground level decks may be located in the rear setback area as long as they do not encroach into utility easements in the rear yards. If a conflict arises in determining the setback area, the provisions of Title 21 of the Municipal Land Use Code pertaining to "yards" shall be used as a guide.

Section 9.4. Fences. Unit Owners may not construct fences until after the final certificate of occupancy has been issued by the Municipality for the Unit. Any fences built by Unit Owners must comply with applicable local, state, and federal laws. Unit Owners must obtain the permission of the Executive Board to construct a fence. If built, fences must be maintained as an attractive addition to the Unit. No fence is permitted in the front yard unless the Executive Board finds it will become an attractive addition to the neighborhood. Metal or chain-link fences are not permitted. Declarant makes no guarantees that the Municipality will allow Unit Owners to construct fences. At a minimum, the Executive Board must require Unit Owners prior to constructing fences to:

- (a) prove to the satisfaction of the Executive Board that the fence will not encroach on neighboring units or Common Elements;
- (b) obtain utility locations to avoid damaging utilities during construction;
- (c) obtain any permission necessary from utilities; and
- (d) submit drawings, photographs, plans, or other descriptions that will allow the Executive Board to determine that the fence will be an attractive addition to the Unit.

Section 9.5. House Colors. Houses built within the Units may be painted or stained but the colors are limited to earth tones and pastels. Trim colors may be of a slightly darker contrasting color. All colors must be approved by the Executive Board as provided in Article XI. Both sides of a structure must be painted the same color.

ARTICLE X.

Easements and Licenses.

Section 10.1. Easement for Ingress and Egress Through Common Elements. Each Unit Owner has an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable rules and regulations as may be imposed by the Association. Each Unit is hereby burdened with an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

Section 10.2. Easements for Support. Each Unit and Common Element has an easement for lateral and subjacent support from every other Unit and Common Element.

Section 10.3. Easements for Encroachments. In the event any portion of the Common Elements encroaches on any Unit or any Unit encroaches on the Common Elements or another Unit as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the Improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

Section 10.4. Temporary Blanket Utility Easements. Each Unit and the Common Elements will be subject to a blanket easement for the installation and maintenance of utilities. The location of utilities installed under this blanket easement will be shown in the final as-built as Units are completed.

Section 10.5. Recorded Easements and Licenses. All recorded easements or licenses to which the Common Interest Community is presently subject are recited in Exhibit 3 to this Declaration or are shown on the Plats and Plans. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to its powers under Article VII of this Declaration.

ARTICLE XI.

Additions, Alterations, and Improvements.

Section 11.1. Additions, Alterations, and Improvements by Unit Owners.

(a) No Unit Owner will make any structural addition, structural alteration, or structural improvement in or to the Common Interest Community without the prior written consent thereto of the Executive Board in accordance with Subsection 11.1(c).

(b) Subject to Subsection 11.1(a), a Unit Owner:

(i) May make any other improvements or alterations to the interior of his Unit not requiring approval so long as the alterations or Improvements do not impair the support of any portion of the Common Interest Community, another Unit, or structures thereon; and

(ii) May not change the appearance of the Common Elements without permission of the Association;

(c) A Unit Owner may submit a written request to the Executive Board for approval to do anything that he or she is forbidden to do under Subsection 11.1(a) or 11.1(b)(ii). The Executive Board shall answer any written request for such approval, after Notice and Hearing, within thirty (30) days after the request thereof. Failure to do so within such time shall not

constitute a consent by the Executive Board to the proposed action. The Executive Board shall review requests in accordance with the provisions of its Rules. The approval of a written request may be withheld not only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also by reason of reasonable dissatisfaction of the Board with the location of the proposed structure, the elevation, color scheme, finish, design, proportions, architecture, shape, height, style and appropriateness of the proposed structure or alteration, the material used therein, or because of its reasonable dissatisfaction with any or all other matters or things which in the reasonable judgment of the Board will render the proposed alteration or improvement inharmonious or out of keeping with the general plan of improvement of the Common Interest Community. Improvements erected or maintained, otherwise than as approved by the Board, shall be deemed to have been undertaken without the approval of the Board as required by the Declaration. The approval of the Board of any plans or specifications submitted for approval as herein specified shall not be deemed to be a waiver by the Board of its right to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications. No member of the Board shall be liable to any person for his or her decisions or failure to act in making decisions as a member of said Board. Upon approval of the Board, it shall be conclusively presumed that the location and height of any improvement does not violate the provisions of this Declaration.

(d) Any applications to any department or to any governmental authority for a permit to make any addition, alteration, or Improvement in or to any Unit must be approved in writing by the Association. Such execution will not, however, create any liability on the part of the Association or any of its members to any contractor, subcontractor, or materialman on account of such addition, alteration, or Improvement or to any person having any claim for injury to person or damage to property arising therefrom.

(e) The provisions of this Article shall not apply to the Declarant in the exercise of any Special Declarant Right.

Section 11.2. Additions, Alterations and Improvements by Executive Board. Subject to the limitations of Sections 17.5 and 17.6 of this Declaration, the Executive Board may make any additions, alterations, or Improvements to the Common Elements which in its judgment it deems necessary.

ARTICLE XII.

Relocation of Boundaries Between Adjoining Units.

Section 12.1. Application and Amendment. Subject to approval of any structural changes and required permits pursuant to Article XI, the boundaries between adjoining Units may be relocated by an amendment to the Declaration upon application to the Association by the owners of the Units affected by the relocation. If the owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application shall state the proposed reallocation. Unless the Executive Board determines, within thirty (30) days after receipt of the application, that the reallocation is unreasonable, the Association shall consent to the reallocation and prepare an amendment that identifies the Units involved, states the amendment must be executed by those Unit Owners, and contain words of conveyance between them, and the approval of all holders of Security Interests in the affected Units shall be endorsed thereon. On recordation, the amendment shall be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the Association.

Section 12.2. Recording Amendments. The Association shall prepare and record Plats or Plans necessary to show the altered boundaries between adjoining Units, and their dimensions and identifying numbers. The applicants will pay for the cost of preparation, recording, and filing of the amendment, Plat and Plans, and the reasonable consultant fees of the Association if it is deemed necessary to employ a consultant by the Executive Board.

ARTICLE XIII. Amendments to Declaration.

Section 13.1. General. Except in cases of amendments that may be executed by the Declarant in the exercise of its Development Rights or by Section 34.08.740 of the Act, or by and Section 12.1 of this Declaration and 34.08.260 of the Act, and except as limited by Section 13.4 and Article XVI of this Declaration, this Declaration, including the Plat and Plans, may be amended only by vote or agreement of Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

Section 13.2. Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one year after the amendment is recorded.

Section 13.3. Recordation of Amendments. Each amendment to the Declaration must be recorded in each district in which a portion of the Common Interest Community is located and the amendment is effective only upon recording. An amendment, except an amendment pursuant to Article XI of this Declaration, must be indexed in the grantee's index in the name of the Common Interest Community and the Association and in the name of the parties executing the amendment.

Section 13.4. When Unanimous Consent Required. Except to the extent expressly permitted or required by other provisions of the Act and this Declaration, an amendment may not create or increase Special Declarant Rights, create or change the number of Units, change the boundaries of a Unit, change the Allocated Interests of a Unit, or change the uses to which a Unit is restricted, in the absence of unanimous consent of the Unit Owners.

Section 13.5. Execution of Amendments. An amendment to the Declaration required by the Act to be recorded by the Association, which has been adopted in accordance with this Declaration and the Act, must be prepared, executed, recorded, and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the President of the Association.

Section 13.6. Special Declarant Rights. Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

Section 13.7. Consent of Holders of Security Interests. Amendments are subject to the consent requirements of Article XVI.

Section 13.8. Amendments to Create Units. To exercise any Development Right reserved under Section 7.1 of this Declaration, the Declarant shall prepare, execute, and record an amendment to the Declaration. The Declarant shall also record either new Plats and Plans necessary to conform to the requirements of Subsections (a), (b), and (d) of Section 170 of the Act or new certifications of Exhibit 2 previously recorded if the Exhibits otherwise

conform to the requirements of those Subsections. The amendment to the Declaration shall assign an identifying number to each new Unit created and reallocate the Allocated Interests among all Units. The amendment shall describe any Common Elements and any Limited Common Elements created thereby and designate the Unit to which each Limited Common Element is allocated to the extent required by Subsection 160(a) of the Act.

**ARTICLE XIV.
Amendments to Bylaws.**

The Bylaws may be amended only by vote of two-thirds (2/3) of the members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose.

**ARTICLE XV.
Termination.**

Termination of the Common Interest Community may be accomplished only in accordance with Section 34.08.260 of the Act.

**ARTICLE XVI.
Mortgagee Protection.**

Section 16.1. Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers, and guarantors of certain Security Interests. This Article is supplemental to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 16.2. Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent of Eligible Mortgagees holding Security Interests in Units which in the aggregate have allocated to them such specified percentage of votes in the Association when compared to the total allocated to all Units then subject to Security Interests held by Eligible Mortgagees.

Section 16.3. Notice of Action. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

(a) Any condemnation loss or casualty loss exceeding \$10,000 which affects a portion of the Common Interest Community or any Unit in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable;

(b) Any delinquency in the payment of Common Expense assessments owed by an Owner whose Unit is subject to a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require a consent of a specified percentage of Eligible Mortgagees as specified in Section 16.4;

(e) Any judgment rendered against the Association; and

(f) Any default in performance by the individual Unit borrower of any obligation under the Documents which is not cured within sixty (60) days.

Section 16.4. Consent Required.

(a) Document Changes. Notwithstanding any lower requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents by the Association or Unit Owners described in this Subsection 16.4(a) may be effective until approved in writing by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration), except as provided in Section 16.12. The foregoing approval requirements do not apply to amendments effected by the exercise of any Special Declarant Right. Material includes, but is not limited to, any provision affecting:

- (i) Assessments, assessment liens, or subordination of assessment liens;
- (ii) Voting rights;
- (iii) Reserves for maintenance, repair, and replacement of Common Elements;
- (iv) Responsibility for maintenance and repairs;
- (v) Reallocation of interests in the Common Elements, including any change in the pro rata interest or obligations of any Unit Owner for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;
- (vi) Rights to use Common Elements and Limited Common Elements;
- (vii) Boundaries of Units after conveyance of those Units by Declarant or a dealer to a purchaser;
- (viii) Convertibility of Units into Common Elements or Common Elements into Units;
- (ix) Abandonment, partition, subdivision, expansion, or contraction of the Common Interest Community, or the addition, annexation, partition, subdivision, or withdrawal of property to or from the Common Interest Community;
- (x) Insurance or fidelity bonds;
- (xi) Leasing of Units;
- (xii) Imposition of restrictions on a Unit Owner's right to sell or transfer his or her Unit;

(xiii) Establishment of self-management when professional management had been required previously by any Eligible Mortgagee;

(xiv) Restoration or repair of the project after a hazard damage or partial condemnation in a manner other than that specified in the Documents;

(xv) Termination of the Common Interest Community for reasons other than the substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required;

(xvi) The benefits of mortgage holders, insurers, or guarantors; and

(xvii) The purposes to which any Unit or the Common Elements are restricted.

(b) Actions. Notwithstanding any lower requirement permitted by the Declaration or the Act, the Association may not take any of the following actions other than rights reserved to the Declarant as Special Declarant Rights without the approval of at least fifty-one percent (51%) of the Eligible Mortgagees:

(i) Convey or encumber the Common Elements or any portion thereof (as to which an eighty percent (80%) Eligible Mortgagee approval is required). (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause);

(ii) The establishment of self-management when professional management had been required previously by any Eligible Mortgagee;

(iii) The restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Documents;

(iv) The termination of the Common Interest Community for reasons other than substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required;

(v) The alteration of any partition or creation of any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), in which case only the owners of Units affected and Eligible Mortgagees of those Units need approve the action;

(vi) The merger of this Common Interest Community with any other common interest community;

(vii) The granting of any easements, leases, licenses and concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Common Interest Community and excluding any leases, licenses, or concessions for no more than one (1) year);

(viii) The assignment of the future income of the Association, including its right to receive Common Expense assessments; and

(ix) Any action taken not to repair or replace the Property.

(c) The Association may not change the period for collection of regularly budgeted Common Expense assessments to other than monthly without the consent of all Eligible Mortgagees.

(d) The failure of an Eligible Mortgagee to respond within thirty (30) days to any written request of the Association for approval of an addition or amendment to the Declaration shall constitute an implied approval provided that notice was delivered by certified or registered mail with return receipt requested.

Section 16.5. Development Rights. No Development Rights may be exercised or voluntarily abandoned or terminated by the Declarant unless all persons holding Security Interests in the Development Rights consent to the exercise, abandonment, or termination. No Development Rights may be exercised later than five (5) years after the date of recording of this Declaration unless fifty-one percent (51%) of the Eligible Mortgagees consent to the exercise of the Development Right.

Section 16.6. Inspection of Books. The Association shall maintain current copies of the Declaration, Bylaws, Rules, bookkeeping records, and financial statements. The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the documents of the Association during normal business hours.

Section 16.7. Financial Statements. The Association shall provide any Eligible Mortgagee or Eligible Insurer which submits a written request, with a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if any Eligible Mortgagee or Eligible Insurer requests it, in which case the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

Section 16.8. Enforcement. The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors, and may be enforced by any of them by any available means, at law or in equity.

Section 16.9. Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend any meeting which a Unit Owner may attend.

Section 16.10. Appointment of Trustee. In the event of damage or destruction under Article XX or XXI or condemnation of all or a portion of the community, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to Section 1.32. Such Trustee may be required to be a corporate trustee licensed by the State of Alaska. Proceeds will thereafter be distributed pursuant to Article XX or pursuant to a condemnation award. Unless otherwise required, the members of the Executive Board acting by majority vote through the president may act as Trustee.

Section 16.11. Priority on Insurance and Condemnation Proceeds. No provision of the Documents of the Association shall be deemed to give priority to an Owner or any other party over any rights of an Eligible Mortgagee pursuant to the terms of its Security Interest in the case of distribution of insurance proceeds or condemnation proceeds, whether such proceeds pertain to a Unit or Common Elements.

Section 16.12. Exception to Consent Requirements for Pre-Sale Boundary Relocations. In the event that Declarant or a Dealer changes the boundaries between two or more Units pursuant to Article XII, no consent is required from any Eligible Mortgagee so long as none of the Units having their boundaries changed have been conveyed to a purchaser. If a Unit having its boundaries changed has been conveyed to a purchaser, then the Eligible Mortgagee consent provisions of Section 16.4 apply.

ARTICLE XVII.

Assessment and Collection of Common Expenses.

Section 17.1. Apportionment of Common Expenses. Except as provided in Section 17.2, all Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Expenses as shown on Exhibit 1 to this Declaration.

Section 17.2. Common Expenses Attributable to Fewer Than All Units.

(a) Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against the Unit that benefits from such service.

(b) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction of the Unit shall be assessed against that Unit.

(c) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expense liabilities.

(d) If Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against the Unit.

(e) Fees, charges, late charges, fines, collection costs, and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.

Section 17.3. Lien.

(a) The Association has a lien on a Unit for an assessment levied against the Unit or fines imposed against its Unit Owner from the time the assessment or fine becomes due. Fees, charges, late charges, fines, and interest charged pursuant to the Act and the Documents are enforceable as assessments under this Section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (i) a lien and encumbrances recorded before the recordation of the Declaration; (ii) a first Security Interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments charged against the Unit. A lien under this Section is also prior to all Security Interests described in Subsection (ii) of this Subsection if the Common Expense assessments based on the periodic budget adopted by the Association pursuant to Section 17.4 of this Article which would have become due in the absence of acceleration

during the six (6) months immediately preceding institution of an action to enforce either the Association's lien or a Security Interest described in Subsection (ii) of this Subsection. This Subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the provisions of AS 09.38.10.

(c) Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this Section is required.

(d) A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessment becomes due; provided, that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's liens shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(e) This Section does not prohibit an action to recover sums for which Subsection 17.3(a) creates a lien or prohibit an Association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this Section shall include costs and reasonable attorneys' fees for the prevailing party.

(g) A judgment or decree in an action brought under this Section is enforceable by execution under AS 09.35.010.

(h) The Association's lien must be foreclosed as a mortgage or deed of trust on real estate is foreclosed, or as a lien is foreclosed under AS 34.35.005.

(i) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from that Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense assessments based on a periodic budget adopted by the Association pursuant to Section 17.5 of this Declaration.

(j) If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection 17.3(b). Any unpaid assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

(k) In the case of foreclosure, the Association shall give reasonable notice of its action to each lienholder of a Unit whose interest would be affected.

(l) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

(m) The Association may acquire, hold, lease, mortgage, and convey a Unit foreclosed on under this Section.

(n) Except as provided in (j) above, a lien under this Section is not affected by the sale or transfer of a Unit.

Section 17.4. Budget Adoption and Ratification. Within thirty (30) days after adoption of a proposed budget for the Common Interest Community, the Executive Board shall provide a summary of the budget to each Unit Owner, and shall set a date for a meeting of the Unit Owners 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 Unit Owners 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 Unit Owners continues until the Unit Owners ratify a budget proposed by the Executive Board.

Section 17.5. Ratification of Non-budgeted Common Expense Assessments. If the Executive Board votes to levy a Common Expense assessment not included in the current budget, other than one enumerated in Section 17.2 of this Declaration, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Executive Board shall submit such Common Expense to the Unit Owners for ratification in the same manner as a budget under Section 17.4, except that such assessment can be considered at a special meeting as long as the notice required for annual meetings is provided to the Unit Owners.

Section 17.6. Certification of Payment of Common Expense Assessments. The Association upon written request shall furnish to a Unit Owner a statement in recordable form setting out the amount of unpaid assessments against the Unit. The statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Executive Board, and each Unit Owner.

Section 17.7. Monthly Payment of Common Expenses. All Common Expenses assessed under this Article shall be due and payable monthly.

Section 17.8. Acceleration of Common Expense Assessments. In the event of default for a period of ten (10) days by any Unit Owner in the payment of any Common Expense assessment levied against his or her Unit, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable. The holder of a first Security Interest in a Unit which has acquired title to any Unit as a result of a foreclosure of its Security Interest shall be exempt from the application of this Subsection.

Section 17.9. Commencement of Common Expense Assessments. Common Expense assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs.

Section 17.10. No Waiver of Liability for Common Expenses. No Unit Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

Section 17.11. Personal Liability of Unit Owners. The Owner of a Unit at the time a Common Expense assessment or portion thereof is due and payable is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Unit unless he or she agrees to assume the obligation.

Section 17.12. Reserves. As part of the adoption of the regular budget pursuant to

Sections 17.4 and 17.5, the Executive Board shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of improvements to the Common Elements based upon the project's age, remaining life, and the quantity and replacement cost.

Section 17.13. Working Capital. Unit Owners will be required to make a payment equal to two (2) months' assessments at closing. This payment will be used for working capital for the Association. In addition, a prepayment of the first month's assessment will also be due at closing.

**ARTICLE XVIII.
Right to Assign Future Income.**

The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of Unit Owners of Units to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose.

**ARTICLE XIX.
Persons and Units Subject to Documents.**

Section 19.1. Compliance with Documents. All Unit Owners, tenants, mortgagees, and occupants of Units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by such Unit Owner, tenant, mortgagee, or occupant, and all such provisions recorded in the records of the Juneau Recording District of the Third Judicial District are covenants running with the land and shall bind any persons having at any time any interest or estate in such Unit.

Section 19.2. Adoption of Rules. The Executive Board may adopt Rules regarding the use and occupancy of Units, Common Elements, and Limited Common Elements and the activities of occupants, subject to Notice and Comment.

**ARTICLE XX.
Insurance.**

Section 20.1. Coverage. To the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Executive Board determines that any insurance described herein will not be maintained, the Executive Board shall cause notice of that fact to be hand-delivered or sent prepaid by the United States mail to all Unit Owners and Eligible Mortgagees at their respective last known addresses.

Section 20.2. Property Insurance.

(a) Property insurance shall be maintained for all common property of the

Association. The Units, structures within the Units, and any personal property stored on the Units ARE NOT common property of the Association and must be insured by the individual Unit Owners.

(b) Amounts. The common property shall be insured for an amount (after application of any deductions) equal to one hundred percent (100%) of its replacement cost at the time the insurance is purchased and at each renewal date. Personal property owned by the Association for an amount equal to its actual cash value. The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing said replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisal shall be a Common Expense. The maximum deductible for insurance policies shall be the lesser of \$10,000 or one percent (1%) of the policy face amount.

(c) Risks Insured Against. The insurance shall afford protection against "all risks" of direct physical loss commonly insured against.

(d) Other Provisions. Insurance policies required by this Section shall provide that:

(i) The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;

(ii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition of recovery under the policy.

(iii) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance.

(iv) Loss must be adjusted with the Association.

(v) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and, in the absence of such designation, to the Association, in either case to be held in trust for each Unit Owner and such Unit Owner's mortgagee.

(vi) The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner, and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

(vii) The name of the insured shall be substantially as follows: "Ridgeview Condominium Association for the use and benefit of the individual Owners."

Section 20.3. Liability Insurance. Liability insurance, including medical payments insurance, in an amount determined by the Executive Board but in no event less than \$1,000,000, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements and the activities of the Association.

(a) Other Provisions. Insurance policies carried pursuant to this Section shall provide that:

(i) Each Unit Owner is an insured person under the policy with respect to liability arising out of interest of the Unit Owner in the Common Elements or membership in the Association.

(ii) The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner.

(iii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.

(iv) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance.

(v) The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner, and each holder of a Security Interest to whom a certificate- or memorandum of insurance has been issued at their last known addresses.

Section 20.4. Fidelity Bonds. A blanket fidelity bond shall be provided for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force, and in no event less than the sum of three months' assessments plus reserve funds. The bond shall include a provision that calls for ten (10) days' written notice to the Association, to each holder of a Security Interest in a Unit, to each Eligible Mortgagee, and Eligible Insurer that serves an AHFC-owned, FNMA-owned, or FHLMC-owned mortgage on a Unit, and to the insurance trustee, if any, before the bond can be cancelled or substantially modified for any reason.

Section 20.5. Unit Owner Policies. An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his or her own benefit. **Units, structures, and personal property of Unit Owners ARE NOT common property of the Association and must be insured by the Unit Owner.**

Section 20.6. Workers' Compensation Insurance. The Executive Board shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Alaska.

Section 20.7. Directors' and Officers' Liability Insurance. The Executive Board shall obtain and maintain Directors' and officers' liability insurance, if available, covering all of the Directors and officers of the Association in such limits as the Executive Board may, from time to time, determine.

Section 20.8. Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association or the Unit Owners.

Section 20.9. Premiums. Insurance premiums shall be a Common Expense.

ARTICLE XXI. Damage to or Destruction of Property.

Section 21.1. Duty to Restore. A portion of the Common Interest Community for which insurance is required under Section 34.08.440 of the Act or for which insurance carried by the Association is in effect, whichever is more extensive, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) The Common Interest Community is terminated;
- (b) Repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- (c) Eighty percent (80%) of the Unit Owners, including each owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

Section 21.2. Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 21.3. Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Executive Board, a majority of Unit Owners, and fifty-one percent (51%) of Eligible Mortgagees. Any repair or restoration must meet existing local, state, and federal laws.

Section 21.4. Replacement of Less Than Entire Property.

(a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community;

(b) Except to the extent that other persons will be distributees:

(i) The insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the owner of the Unit to which the Limited Common Elements were allocated, or to lien holders, as their interests may appear; and

(ii) The remainder of the proceeds must be distributed to each Unit Owner or lien holder, as their interests may appear, in proportion to the Common Element interests of all the Units.

(c) If the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned under Subsection 34.08.860(a) of the Act, and the Association promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocations.

Section 21.5. Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, then the Executive Board of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners, and lien holders as their interests may appear. Subject to the provisions of Subsection 21.1(a) through Subsection 21.1(c), the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners, and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Common Interest Community is terminated.

Section 21.6. Certificates by the Executive Board. The Trustee, if any, may rely on the following certifications in writing made by the Executive Board:

(a) Whether or not damaged or destroyed Property is to be repaired or restored; and

(b) The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 21.7. Title Insurance Policies. If payments are to be made to Unit Owners or mortgagees, the Executive Board, and the Trustee, if any, shall obtain and may rely on a title insurance company or attorney's title certificate or a title insurance policy based on a search of the records of the Juneau Recording District of the Third Judicial District from the date of the recording of the original Declaration stating the names of the Unit Owners and the mortgagees.

ARTICLE XXII.

Rights to Notice and Comment; Notice and Hearing.

Section 22.1. Right to Notice and Comment. Before the Executive Board amends the Bylaws

or the Rules, whenever the Documents require that an action be taken after "Notice and Comment," and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in writing and shall be delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than ten (10) days before the proposed action is to be taken. It shall invite comment to the Executive Board orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

Section 22.2. Right to Notice and Hearing. Whenever the Documents require that an action be taken after "Notice and Hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time, and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing, or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

Section 22.3. Appeals. Any person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of persons other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

Section 22.4. Association Records. The Association shall maintain current copies of the Declaration, Bylaws, Rules, bookkeeping records, and financial statements. The Association shall permit any Unit Owner to inspect the documents of the Association during normal business hours.

ARTICLE XXIII. Executive Board.

Section 23.1. Minutes of Executive Board Meetings. The Executive Board shall permit any Unit Owner to inspect the minutes of Executive Board meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after any such meeting.

Section 23.2. Powers and Duties. The Executive Board may act in all instances on behalf

of the Association, except as provided in this Declaration, the Bylaws, or the Act. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws, Rules, and regulations;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves;
- (c) Collect assessments for Common Expenses from Unit Owners;
- (d) Hire and discharge managing agents;
- (e) Hire and discharge employees and agents, other than managing agents, and independent contractors;
- (f) Institute, defend, or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Association's Declaration, Bylaws, or Rules in the Association's name on behalf of the Association or two (2) or more Unit Owners on matters affecting the Common Interest Community;
- (g) Make contracts and incur liabilities;
- (h) Regulate the use, maintenance, repair, replacement, and modification of the Common Elements;
- (i) Cause additional Improvements to be made as a part of the Common Elements;
- (j) Acquire, hold, encumber, and convey in the Association's name any right, title, or interest to real property or personal property, but Common Elements may be conveyed-or subjected to a Security Interest only pursuant to Section 34.08.430 of the Act;
- (k) Grant easements for any period of time including permanent easements, and leases, licenses, and concessions for no more than one (1) year, through or over the Common Elements;
- (l) Impose and receive a payment, fee, or charge for services provided to Unit Owners;
- (m) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy a reasonable fine for violations of this Declaration, Bylaws, Rules, and regulations of the Association; Impose a reasonable charge for the preparation and recordation of amendments to this Declaration, resale certificates required by Section

34.08.590 of the Act, or a statement of unpaid assessments;

(n) Provide for the indemnification of the Association's officers and Executive Board and maintain Directors' and officers' liability insurance;

(o) Assign the Association's right to future income, including the right to receive Common Expense assessments;

(p) Exercise any other powers conferred by this Declaration or the Bylaws;

(q) Exercise any other power that may be exercised in this state by legal entities of the same type as the Association;

(r) Exercise any other power necessary and proper for the governance and operation of the Association; and

(s) By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified, or rejected by the Executive Board at its next regular meeting.

Section 23.3. Executive Board Limitations. The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community, or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

ARTICLE XXIV. Open Meetings.

Section 24.1. Access. All meetings of the Executive Board at which action is to be taken by vote at such meeting will be open to the Unit Owners, except as hereafter provided.

Section 24.2. Notice. Notice of every such meeting will be given not less than twenty-four (24) hours prior to the time set for such meeting, by posting such notice in a conspicuous location in the Common Interest Community, except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

Section 24.3. Executive Sessions. Meetings of the Executive Board may be held in executive session, without giving notice and without the requirement that they be open to Unit Owners, in either of the following situations only:

(a) No action is taken at the executive session requiring the affirmative vote of Directors; or

(b) The action taken at the executive session involves personnel, pending litigation,

contract negotiations, or enforcement actions.

**ARTICLE XXV.
Condemnation.**

If part or all of the Common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 34.08.740 of the Act.

**ARTICLE XXVI.
Party Walls.**

Section 26.1. Party Wall. A wall or roof constructed on a Unit boundary between adjoining Units is a party wall. The portion of a roof or fence common to adjoining Units shall be treated as analogous to a Party Wall and is governed by these provisions.

Section 26.2. General Rules of Law. General rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions apply to Party Walls in this Common Interest Community.

Section 26.3. Party Wall Ownership. The Unit Owner owns that portion of a Party Wall that is located on the owner's Unit.

Section 26.4. Repair and Maintenance: Rebuilding: Access: Extension.

(a) The lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and other materials constituting a part of the finished surfaces of a Party Wall are part of the Unit and shall be maintained and repaired by the Unit Owner within whose Unit they are located. In addition, chutes, flues, ducts, wires, conduit, bearing walls, bearing columns, or other fixtures lying within a Party Wall and servicing only one Unit, are a part of said Unit. to be maintained and repaired by the Owner of that Unit. Any portion of a Party Wall used by both adjacent Unit Owners shall be repaired and maintained by both Unit Owners, and the cost of repair and maintenance shall be shared equally by the two Unit Owners.

(b) If rebuilding of a Party Wall is necessary, the Party Wall shall be rebuilt on the same location and to the same width as the Party Wall being replaced.

(c) A Unit Owner making repairs to or rebuilding a Party Wall, upon reasonable notice to the other Unit Owner, shall be given access to the other Unit, as reasonably necessary to make the repairs or to conduct the rebuilding of the Party Wall but shall take all due precaution not to damage the property of the other Unit Owner.

(d) As permitted by the Association and local law, a Party Wall may be extended by a Unit Owner, and the other Unit Owner shall have the right to use the extended Party Wall by paying the Unit Owner one-half (1/2) the cost of such part of the Party Wall as the other Unit Owner shall use. The other Unit Owner shall be responsible for one-half (1/2) of the maintenance cost of only that portion of the extended Party Wall that the other Unit Owner uses.

Section 26.5. Destruction by Fire or Other Casualty. A Party Wall that has been damaged or destroyed by fire or other casualty may be restored by either Unit Owner. If the other Unit Owner thereafter makes use of the Party Wall, the other Unit Owner shall contribute to the cost of restoration thereof in proportion to such use subject, however, to the Unit Owner's right to call for a larger contribution from the other Unit Owner under the applicable rule of law regarding liability for negligent or willful acts or omissions.

Section 26.6. Insurance. Both Unit Owners sharing a Party Wall shall maintain property insurance sufficient to fully fund the repair or replacement of the Party Wall if damaged by fire or other insured casualty.

Section 26.7. Exterior Appearance. The exterior colors and materials, including the roofs, of dwellings on adjacent Units joined by a Party Wall must be identical and may not be changed without the written permission of the Association and the written consent of the other Unit Owner. Each Unit Owner shall be responsible for the cost of paint and/or other materials applied to its dwelling.

Section 26.8. Weather Protection. Notwithstanding any other provision of this Article, a Unit Owner who by its negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of repair and furnishing the necessary protection against such elements.

Section 26.9. Disputes. Any controversy that may arise between adjacent Unit Owners over the necessity for or cost of repairs and maintenance of the Party Wall shall be submitted to the Association which shall make a final, binding determination.

ARTICLE XXVII. Miscellaneous.

Section 27.1. Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of the Documents nor the intent of any provision thereof.

Section 27.2. Gender. The use of the masculine gender refers to the feminine and neuter genders, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

Section 27.3. Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 27.4. Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability, or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect. Section 27.5. Conflict. The Documents are intended to comply with the requirements of the Act and Title 10, Chapter 20 of the Alaska Statutes (Non-Profit Corporation Law). In the event of any conflict between the Documents and the provisions of the statutes, the provision of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

Section 27.6. Rights of Action. The Association and any aggrieved Unit Owner shall have a

right of action against Unit Owners for failure to comply with the provisions of the Documents or with decisions of the Association which are made pursuant to the Documents. Unit Owners shall also have such rights of action against the Association.

SIGNATURE PAGE FOLLOWS

In Witness Whereof, the Declarant has caused this Declaration to be executed this _____ day of _____.

ROOFTOP PROPERTIES, LLC.

By: _____
Name:
Title:

[NOTARY BLOCK]