

**AMENDMENT AND RESTATEMENT  
OF THE DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
LAKESIDE TERRACE TOWNHOUSES**

**PALMER RECORDING DISTRICT**  
**AMENDMENT AND RESTATEMENT OF THE**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**LAKESIDE TERRACE TOWNHOUSES**  
**TABLE OF CONTENTS**

	<b><u>Page</u></b>
PREAMBLE.....	1
<b><u>ARTICLE I - Definitions</u></b> .....	2
Section 1.1 - Act.....	2
Section 1.2 - Allocated Interests.....	2
Section 1.3 - Association.....	2
Section 1.4 - Bylaws.....	2
Section 1.5 - Common Elements.....	2
Section 1.6 - Common Expenses.....	2
Section 1.7 - Common Interest Community.....	3
Section 1.8 - Declaration.....	3
Section 1.9 - Director.....	3
Section 1.10 - Documents.....	3
Section 1.11 - Eligible Insurer.....	3
Section 1.12 - Eligible Mortgagee.....	3
Section 1.13 - Executive Board.....	3
Section 1.14 - Improvements.....	3
Section 1.15 - Majority or Majority of Unit Owners...	3
Section 1.16 - Manager.....	3
Section 1.17 - Notice and Comment.....	3
Section 1.18 - Notice and Hearing.....	4
Section 1.19 - Party Wall.....	4
Section 1.20 - Person.....	4
Section 1.21 - Planned Community.....	4
Section 1.22 - Plat.....	4
Section 1.23 - Property.....	4
Section 1.24 - Rules.....	4
Section 1.25 - Security Interest.....	4
Section 1.26 - Septic System.....	4
Section 1.27 - Trustee.....	4
Section 1.28 - Unit.....	5
Section 1.29 - Unit Owner.....	5

<u>ARTICLE II - Name and Type of Common Interest Community and Association.....</u>	5
Section 2.1 - Common Interest Community.....	5
Section 2.2 - Association.....	5
<u>ARTICLE III Description of Land.....</u>	5
<u>ARTICLE IV - Maximum Number of Units; Boundaries.....</u>	5
Section 4.1 - Maximum Number of Units.....	5
Section 4.2 - Boundaries.....	5
<u>ARTICLE V - Common Elements.....</u>	6
<u>ARTICLE VI - Conveyance or Encumbrance of Common Elements.....</u>	6
Section 6.1 - Homeowner Approval.....	6
Section 6.2 - Proceeds of Sale or Loan.....	6
Section 6.3 - Form of Conveyance and Ratification...	6
Section 6.4 - Association Contract to Convey.....	6
<u>ARTICLE VII - Maintenance, Repair and Replacement.....</u>	6
Section 7.1 - Common Elements.....	6
Section 7.2 - Septic System.....	6
Section 7.3 - Units.....	7
Section 7.4 - Access.....	7
Section 7.5 - Repairs Necessitated by Unit Owner's Action or Inaction.....	7
Section 7.6 - Repairs Necessitated by Association Action or Inaction.....	7
Section 7.7 - Quality of Work.....	7
Section 7.8 - Necessity.....	8
Section 7.9 - Examination.....	8
<u>ARTICLE VIII - Party Walls.....</u>	8
Section 8.1 - General Rules of Law to Apply.....	8
Section 8.2 - Sharing of Repair and Maintenance.....	9
Section 8.3 - Destruction by Fire or Other Casualty.	9
Section 8.4 - Weatherproofing.....	9
Section 8.5 - Right to Contribution Runs with the Land.....	9
Section 8.6 - Arbitration.....	9
<u>ARTICLE IX - Allocated Interests.....</u>	9
Section 9.1 - Allocation of Interests.....	9
Section 9.2 - Formulas for the Allocation of Interests.....	9

<u>ARTICLE X - Restrictions on Use, Alienation and Occupancy.....</u>	10
Section 10.1 - Use and Occupancy Restrictions.....	10
Section 10.2 - Restrictions on Alienation.....	10
<u>ARTICLE XI - Easements and Licenses.....</u>	10
Section 11.1 - Recorded Easements and Licenses.....	10
Section 11.2 - Owner's Easement of Enjoyment in Common Elements.....	10
Section 11.3 - Limitations on Owner's Easement.....	11
Section 11.4 - Walks, Passways, Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines and Other Elements.....	12
<u>ARTICLE XII - Additions, Alterations and Improvements.....</u>	12
Section 12.1 - Additions, Alterations and Improvements by Unit Owners.....	12
Section 12.2 - Additions, Alterations and Improvements by Executive Board.....	13
<u>ARTICLE XIII - Amendments to Declaration.....</u>	13
Section 13.1 - General.....	13
Section 13.2 - When Unanimous Consent Required.....	14
Section 13.3 - Execution of Amendments.....	14
Section 13.4 - Recordation of Amendments.....	14
Section 13.5 - Consent of Holders of Security Interests.....	14
Section 13.6 - Limitation of Challenges.....	14
Section 13.7 - Cost of Amendments.....	14
<u>ARTICLE XIV - Amendments to Bylaws.....</u>	14
<u>ARTICLE XV - Termination.....</u>	14
<u>ARTICLE XVI - Mortgagee Protection.....</u>	15
Section 16.1 - Introduction.....	15
Section 16.2 - Percentage of Eligible Mortgagees.....	15
Section 16.3 - Notice of Actions.....	15
Section 16.4 - Consent Required.....	15
Section 16.5 - Inspection of Books.....	18
Section 16.6 - Financial Statements.....	18
Section 16.7 - Enforcement.....	18
Section 16.8 - Attendance at Meetings.....	18
Section 16.9 - Appointment of Trustee.....	18
Section 16.10 - Priority on Insurance and Condemnation Proceeds.....	19
Section 16.11 - Right to Reimbursement.....	19

<u>ARTICLE XVII - Assessment and Collection of Common Expenses.</u>	19
Section 17.1 - Apportionment of Common Expenses.....	19
Section 17.2 - Common Expenses Attributable to Fewer Than All Units.....	19
Section 17.3 - Lien.....	20
Section 17.4 - Budget Adoption and Ratification.....	21
Section 17.5 - Non-Budgeted Common Expense Assessments.....	22
Section 17.6 - Certificate of Payment of Common Expense Assessments.....	22
Section 17.7 - Monthly Payment of Common Expenses....	22
Section 17.8 - Acceleration of Common Expense Assessments.....	22
Section 17.9 - No Waiver of Liability for Common Expenses.....	22
Section 17.10 - Personal Liability of Unit Owners....	22
Section 17.11 - Nonpayment of Septic System Assessments.....	22
<u>ARTICLE XVIII - Right to Assign Future Income.....</u>	23
<u>ARTICLE XIX - Persons and Units Subject to Documents.....</u>	23
Section 19.1 - Compliance with Documents.....	23
Section 19.2 - Adoption of Rules.....	23
<u>ARTICLE XX - Insurance.....</u>	23
Section 20.1 - Coverage.....	23
Section 20.2 - Property Insurance.....	23
Section 20.3 - Liability Insurance.....	25
Section 20.4 - Fidelity Bonds.....	25
Section 20.5 - Unit Owner Policies.....	26
Section 20.6 - Workers' Compensation Insurance.....	26
Section 20.7 - Directors' and Officers' Liability Insurance.....	26
Section 20.8 - Other Insurance.....	26
Section 20.9 - Premiums.....	26
<u>ARTICLE XXI - Damage To or Destruction of Property.....</u>	26
Section 21.1 - Duty to Restore.....	26
Section 21.2 - Cost.....	26
Section 21.3 - Plans.....	26
Section 21.4 - Insurance Proceeds.....	27
Section 21.5 - Certificates by the Executive Board...	27
Section 21.6 - Certificates by Attorneys.....	27

ARTICLE XXII - Rights to Notice and Comment; Notice and Hearing..... 27

Section 22.1 - Right to Notice and Comment..... 27

Section 22.2 - Right to Notice and Hearing..... 28

Section 22.3 - Appeals..... 28

ARTICLE XXIII - Executive Board..... 28

Section 23.1 - Association Records and Minutes  
of Executive Board Meetings..... 28

Section 23.2 - Powers and Duties..... 29

Section 23.3 - Executive Board Limitations..... 30

ARTICLE XXIV - Open Meetings..... 30

Section 24.1 - Access..... 30

Section 24.2 - Notice..... 31

Section 24.3 - Executive Sessions..... 31

ARTICLE XXV - Condemnation..... 31

ARTICLE XXVI - Miscellaneous..... 31

Section 26.1 - Captions..... 31

Section 26.2 - Gender..... 31

Section 26.3 - Waiver..... 31

Section 26.4 - Invalidity..... 31

Section 26.5 - Conflict..... 32

Section 26.6 - Rights of Action..... 32

EXHIBITS TO RESTATEMENT

Exhibit "A" - Easements and Licenses

Exhibit "B" - Unit Owner and Mortgagee Consents to  
Amendment

**PALMER RECORDING DISTRICT**  
**AMENDMENT AND RESTATEMENT OF THE**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**LAKESIDE TERRACE TOWNHOUSES**

This is an amendment and restatement of the following documents that created Lakeside Terrace Townhouses:

1. Declaration of Covenants, Conditions and Restrictions for Lakeside Terrace Townhouses, recorded August 28, 1978, in Book 172 at Page 993, et seq., Palmer Recording District;
2. Correction to Declaration of Covenants, Conditions and Restrictions for Lakeside Terrace Townhouses recorded December 28, 1978, in Book 182 at Page 597, et seq., Palmer Recording District;
3. Amended Declaration of Covenants, Conditions and Restrictions for Lakeside Terrace Townhouses recorded August 14, 1979, in Book 196 at Page 986, et seq., Palmer Recording District;
4. Amendment to Declaration of Covenants, Conditions and Restrictions for Lakeside Terrace Townhouses recorded December 29, 1982, in Book 287 at Page 832, et seq., Palmer Recording District;
5. Amendment to Declaration of Covenants, Conditions and Restrictions for Lakeside Terrace Townhouses recorded August 17, 1983, in Book 316 at Page 929, et seq., Palmer Recording District; and
6. Supplemental Declaration of Covenants & Restrictions, Lakeside Terrace Townhouses Phase V recorded August 18, 1984, in Book 374 at Page 718, et seq., Palmer Recording District.

The above documents pertain to property described as Lots 1-84 and Blocks 1, 2 and 3, Lake Side Terrace P.U.D., according to Plat No. 78-120, Palmer Recording District, Third Judicial District, State of Alaska. Lots 49-60 and Block 2 have subsequently been re-subdivided on Plat No. 93-77 to create Lots 49A - 60A and Block 2, Lake Side Terrace P.U.D.

**THE PURPOSE OF THIS AMENDMENT AND RESTATEMENT IS TO TOTALLY SUPERSEDE AND REPLACE THE ABOVE-LISTED DECLARATION, DECLARATION AMENDMENTS, CORRECTION TO DECLARATION AND SUPPLEMENTAL DECLARATION.**

This Amendment and Restatement is made by the Owners of the Lakeside Terrace Townhouses pursuant to Article VIII, Section III, of the 1978 Declaration and the 1979 Amended Declaration, and

A.S. 34.08.060 of the Uniform Common Interest Ownership Act, which provides for amendments to governing instruments of a common interest community created before January 1, 1986. By this Amendment and Restatement, the Owners of Lakeside Terrace Townhouses adopt the provisions of A.S. 34.08, the Uniform Common Interest Ownership Act.

## 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, A.S. 34.08, as it may be amended from time to time.

\* Section 1.2 - Allocated Interests. The Common Expense liability, and Votes in the Association, allocated to Units in the Common Interest Community. The Allocated Interests are described in Article IX of this Declaration.

Section 1.3 - Association. LAKESIDE TERRACE TOWNHOUSES, INC., a non-profit corporation organized under Chapter 10.20 of the statutes of the State of Alaska. It is the Association of Unit Owners pursuant to Section 34.08.310 and Section 34.08.990(3) of the Act.

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

\* Section 1.5 - Common Elements. Each portion of the Common Interest Community other than a Unit as defined herein.

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

(i) Expenses of administration, maintenance, repair or replacement of the Common Elements;

(ii) Expenses declared to be Common Expenses by the Documents or by the Act;

(iii) Expenses agreed upon as Common Expenses by the Association; and

(iv) 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 or



for which the Association has maintenance or repair responsibilities.

Section 1.7 - Common Interest Community. The real property subject to the Declaration for LAKESIDE TERRACE TOWNHOUSES.

Section 1.8 - Declaration. This document, including any amendments.

Section 1.9 - Director. A member of the Executive Board.

Section 1.10 - Documents. The Declaration, and Plats which have been recorded and filed, the Bylaws, and the Resolutions as recorded in the Book of Resolutions of the Association, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

Section 1.11 - 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 1.12 - 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 1.13 - Executive Board. The Board of Directors of the Association.

Section 1.14 - Improvements. Any construction, structure, fixture or facility existing or to be constructed on the land included in the Common Interest Community including, but not limited to, buildings, fences, trees and shrubbery planted by the Association, paving, utility wires, pipes, and light poles.

Section 1.15 - Majority or Majority of Unit Owners. The owners of at least 51% of the votes in the Association.

Section 1.16 - Manager. A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.17 - Notice and Comment. The right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 22.1 of this Declaration.

Section 1.18 - 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 and Hearing are set forth in Section 22.2 of this Declaration.

Section 1.19 - Party Wall. Original wall built on the dividing line between two adjoining townhouses, owned by the townhouse owners making use of the wall.

Section 1.20 - Person. An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

\* Section 1.21 - Planned Community. A Common Interest Community that is not a condominium or a cooperative.

Section 1.22 - Plat. Plat No. 78-120, Palmer Recording District, Third Judicial District, State of Alaska, as amended by Plat No. 93-77, Palmer Recording District, which created the Units and Common Elements in Lakeside Terrace Townhouses.

Section 1.23 - Property. The land and all Improvements, easements, rights and appurtenances which have been submitted to the provision of the Act by this Declaration, sometimes hereinafter also referred to as the "Project".

Section 1.24 - Rules. Rules for the use of the Units and Common Elements and for the conduct of persons within the Common Interest Community, adopted by the Executive Board pursuant to this Declaration. Such rules are as found in the Book of Resolutions for the Association, as such resolutions may be amended from time to time.

Section 1.25 - 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 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 1.26 - Septic System. A series of pipes, tanks and drainfields which provides disposal for septic effluent.

Section 1.27 - Trustee. The entity which may be designated by the Board of Directors 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 Board of Directors from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

\* Section 1.28 - Unit. A physical portion of the Common Interest Community (sometimes referred to as a lot) designated for separate ownership or occupancy, the boundaries of which are shown on the Plats.

Section 1.29 - Unit Owner. The Person who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation.

## 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 LAKESIDE TERRACE TOWNHOUSES. Lakeside Terrace Townhouses is a planned community.

Section 2.2 - Association. The name of the Association is LAKESIDE TERRACE TOWNHOUSES, INC., a non-profit corporation organized under the laws of the State of Alaska.

## ARTICLE III

### Description of Land

The entire Common Interest Community is situated in the Palmer Recording District, Third Judicial District, State of Alaska, and is located on land described as:

Lots 1-48 and 61-84, and Blocks 1 and 3, Lake Side Terrace P.U.D., according to Plat No. 78-120, Palmer Recording District; and Lots 49A-60A and Block 2, Lake Side Terrace P.U.D., according to Plat No. 93-77, Palmer Recording District.

## ARTICLE IV

### Maximum Number of Units; Boundaries

\* Section 4.1 - Maximum Number of Units. The Common Interest Community consists of 84 developed lots for individual ownership.

\* Section 4.2 - Boundaries. The boundaries of each Unit are the boundaries of the numbered lots shown on the Plats of Lake Side Terrace P.U.D., Plats No. 78-120 and 93-77, Palmer Recording District.

ARTICLE VCommon Elements

The Common Elements are Blocks 1, 2 and 3 as shown on the Plats of Lake Side Terrace P.U.D., Plats No. 78-120 and 93-77, Palmer Recording District, exclusive of the numbered lots.

ARTICLE VIConveyance or Encumbrance of Common Elements

Section 6.1 - Homeowner Approval. Portions of the common elements may be conveyed or subjected to a security interest by the Association if persons entitled to cast at least 80 percent of the votes in the Association, including 80 percent of the votes allocated to Units not owned by a Declarant, agree to the action.

Section 6.2 - Proceeds of Sale or Loan. The proceeds of a sale and proceeds of a loan secured by encumbering a common area are an asset of the Association.

Section 6.3 - Form of Conveyance and Ratification. An agreement to convey common elements or to subject the common elements to a security interest must be evidenced by the execution of an agreement, or ratifications of the agreement, in the same manner as a deed by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before the date. The agreement is effective only upon recording.

Section 6.4 - Association Contract to Convey. The Association on behalf of the Unit Owners may contract to convey an interest in common elements as provided in this Article but the contract is not enforceable against the Association until approved as required herein. After approval, the Association has the powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute a deed or other instrument.

ARTICLE VIIMaintenance, Repair and Replacement

\* Section 7.1 - Common Elements. The Association shall maintain, repair and replace all of the Common Elements.

Section 7.2 - Septic System. The Association owns and operates an on-site septic system that serves the Project. In accordance with lender requirements, and specifically HUD Handbook 4075.12, Central Water and Sewer Systems, for so long as Units are attached to on-site septic systems, the Association assumes the responsibility for and guarantees the continuous service to the Project of the septic system serving the Project at a reasonable

service rate. The septic system shall not be leased to any other entity for operation of the system. Assessments based on the cost of operating the septic system shall be disbursed only in payment for expenses of this system. Any local, state or federal approvals required to be provided for operation of the system will be so provided and paid for by the Association. Any individual need for septic system certification shall be the sole responsibility of the requesting Unit Owner. Association expenses related to operation of the septic system are a Common Expense.

\* Section 7.3 - Units. Each Unit Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Unit, except the portions thereof, if any, to be maintained, repaired or replaced by the Association. At a minimum, however, the Association shall maintain 1) building siding from the studs out, but excluding glass and anything attached to the exterior of the building; 2) painting of building exterior; 3) roofing and flashing; and 4) asphalt driveways. Each Unit Owner shall be responsible for removing all snow, leaves and debris from all patios and balconies which are attached to his or her Unit. Provisions pertaining to Party Walls between Units are contained in Article VIII.

Section 7.4 - Access. Any person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any condition threatening a Unit or the Common Elements, and for the purpose of performing installations, alterations or repairs, 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 an 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 7.5 - Repairs Necessitated by Unit Owner's Action or Inaction. Each Unit Owner will reimburse the Association for any costs incurred by the Association and any damages to any other Unit(s) 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.

Section 7.6 - Repairs Necessitated by Association Action or Inaction. 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.

Section 7.7 - Quality of Work. The maintenance, repair or replacement of exterior and structural components of buildings shall be of such kind or quality as the Board of Directors shall deem reasonably necessary to maintain all Units in good order and repair. Any such work shall be performed in a good and workmanlike

manner employing materials of equal or better quality than the originals.

Section 7.8 - Necessity. The necessity for any work shall be determined by the Board of Directors whose decision in such matters shall be final, except that the determination to effectuate any maintenance or repair item which will cost a Unit Owner in excess of a maximum cost set by the Board of Directors from time to time shall be subject to the right of the affected Unit Owner to Notice and Hearing by the Board of Directors prior to the commencement of any work.

Section 7.9 - Examination. Repair and maintenance records of the Association shall be available for examination and copying by any Unit Owner, or his or her duly authorized agents or attorneys, at the expense of the Unit Owner, during normal business hours and after reasonable notice. Such records shall include, but not be limited to:

- (a) Items of work performed.
- (b) Dates of performance.
- (c) Names of parties employed to perform the work.
- (d) Notices sent to Unit Owners with respect to such work.
- (e) Summarized minutes of all proceedings before the Board of Directors with respect to such work.
- (f) Any certificate of completion issued by the Board of Directors or other agency.
- (g) All amounts assessed against the Unit to cover the costs of such work.
- (h) Regulations and standards for architectural control.
- (i) Any other records, warranties, correspondence or other materials involving maintenance or repair of each Unit.

## ARTICLE VIII

### Party Walls

\* Section 8.1 - General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhouses upon the property and placed upon the dividing line between the lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 8.2 - Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

\* Section 8.3 - Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice subject, however, to the right of any such owner to call for a larger contribution from the others based on rules of law regarding liability for negligence or willful acts or omissions.

Section 8.4 - Weatherproofing. Notwithstanding any other provisions of this Article, an owner who by his negligence or willful acts causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 8.5 - Right to Contribution Runs with the Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 8.6 - Arbitration. In the event of any dispute arising concerning a party wall or other provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

## ARTICLE IX

### Allocated Interests

Section 9.1 - Allocation of Interests. There are 84 units in Lakeside Terrace Townhouses, with an equally allocated 1.19% liability for Common Expenses and a single vote in the Association. If interests must be reallocated due to addition to or withdrawal of Units from the Common Interest Community, interests shall be reallocated according to the formulas contained in Section 9.2. Any amendment to the Declaration adding or withdrawing Units must also amend the allocations established in this section.

### Section 9.2 - Formulas for the Allocation of Interests.

(a) Liability for the Common Expenses: The percentage of liability for Common Expenses allocated to each unit is derived by dividing the total number of Units in the Common Interest Community into one hundred percent (100%). Nothing contained in this subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article XVII of this Declaration.

(b) Votes. Each Unit in the Common interest Community shall have one (1) equal vote. Any specified percentage of Unit Owners, unless otherwise stated in The documents, means the specified percentage of all votes allocated to Units in the Association.

## ARTICLE X

### Restrictions on Use, Alienation and Occupancy

#### Section 10.1 - Use and Occupancy Restrictions.

(a) Each Unit is restricted to residential use as a single-family residence including home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, vehicle and/or foot traffic, trash, or storage. No sign indicating commercial or professional uses may be displayed outside a Unit, or be visible from outside the Unit.

(b) The use of Common Elements and the occupancy of units are also subject to additional restrictions as set forth in the Book of Resolutions of the Association.

#### Section 10.2 - Restrictions on Alienation.

(a) A Unit may not be conveyed pursuant to a time sharing plan as defined under AS 34.08.550.

(b) No Owner shall be permitted to rent or lease a Unit for transient or hotel purposes. No Owner may lease or rent less than the entire Unit. Any lease or rental agreement shall provide that the terms thereof shall be subject in all respects to the provisions of the Declaration, the Bylaws, and the Rules (including the Book of Resolutions), and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease or rental agreement. All leases and rental agreements shall be in writing. A copy of the lease form shall be given to the Executive Board.

## ARTICLE XI

### Easements and Licenses

Section 11.1 - Recorded Easements and Licenses. All recorded easements or licenses to which the Common Interest Community is presently subject are recited in Exhibit "A" to this Declaration.

Section 11.2 - Owner's Easement of Enjoyment in Common Elements. Every Unit Owner, his heirs, successors, executors, administrators and assigns forever, in common with each other, shall have a right and easement of enjoyment in and to the Common Elements, and such easement shall be appurtenant to, and shall run with, the title to every Unit. Such easement shall include, among other consistent rights, the non-exclusive right to pass and repass



across the Common Elements, to use the Common Elements pursuant to the provisions of this Declaration, and the right to prevent the restriction or alienation of the Common Elements.

Section 11.3 - Limitations on Owner's Easement. The rights and easements of enjoyment created hereby shall be subject to the following, which rights are deemed to be necessary and desirable to facilitate the orderly administration of the Common Interest Community:

(a) The right of the Association, in accordance with its Articles and Certificate of Incorporation and the Bylaws, following written approval by the holders of security interests pursuant to Article XVI, to borrow money for the purpose of improving, maintaining and operating the Common Elements and in aid thereof to mortgage, hypothecate, pledge, assign or grant a security interest in the assets of the Association, including, without limitation, its liens and receivables for Assessments.

(b) The right of the Association to take such steps as are reasonably necessary to protect the rights of the Unit Owners in the Common Elements against foreclosure.

(c) The right of the Association, as provided and limited in its Articles and Certificate of Incorporation and Bylaws, to suspend the enjoyment rights (except rights of egress and ingress) of any Unit Owner for any period during which any Assessment remains unpaid, and for a period not exceeding thirty (30) days for any infraction of the Declaration, Bylaws or Rules, and to levy liquidated minimum damages in an amount not to exceed one-half (1/2) of the monthly assessment for each offense for such infractions as well as specific damages as may occur, all of which shall become Assessments.

(d) The right of the Association to charge reasonable fees for the use of the Common Elements, where such use shall involve additional expense to the Association and shall be different or unique from the use offered to other Unit Owners as a whole, or shall involve unique services or instructions, which fees shall be Assessments.

(e) The right of the Association to impose and grant easements over, under and across the Common Elements, for the purposes of fulfilling the general plan of development, providing ingress and egress, power, electricity, telephone, sewer, water, and other utility and lighting services, irrigation, drainage, television transmission facilities, security services and facilities, and other structures, services and devices in connection therewith, and the like, as the Association deems necessary and proper.

(f) The right of the Association to grant licenses and concessions for the use of the Common Elements, including licenses to non-Unit Owners.

(g) The right and duty of the Association to maintain, preserve and administer the Common Elements for the mutual benefit, health and safety of the Common Interest Community and each of its Owners, to such standards as set by the Association for the mutual benefit and safety of the Owners and the neighboring community.

Section 11.4 - Walks, Passways, Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines and Other Elements. Each Unit Owner has an easement in common with all other Unit Owners for use of all walks, passways, pipes, wires, ducts, cables, drainage ways, conduits, public utility lines, sanitary drainage system facilities and other service elements, if any, located in any of the Units or Common Elements at the time of issuance of the first Certificate of Occupancy or thereafter placed thereon by the Association and serving his or her Unit. Each Unit is subject to an easement in favor of other Units and the Common Elements for use of such walks, passways, drainage ways, pipes, ducts, cables, wires, conduits, public utility lines, sanitary sewerage facilities, and other elements, if any, serving other Units or Common Elements and located in each such Unit. In addition, each Unit shall be subject to, and shall have such easements of support and shelter from and over such other Unit and the Common Elements as may be necessary for the quiet enjoyment of such Unit and the maintenance of facilities.

## ARTICLE XII

### Additions, Alterations and Improvements

#### Section 12.1 - Additions, Alterations and Improvements by Unit Owners.

(a) No Unit Owner shall construct a structure, nor shall any Unit Owner 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. A Unit Owner may not change the appearance of the Common Elements, or the exterior appearance of a Unit or any other portion of the Common Interest Community, without permission of the Association.

(b) 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 (a) of this section. The Executive Board shall answer any written request for such approval, after Notice and Hearing, within forty-five (45) days after the request therefor. The process for obtaining such approval is more completely set forth in the Association's Book of Resolutions. If, after such plans and specifications have been approved, the improvements are altered, erected or maintained otherwise than as

approved by the Board, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the Board having been obtained 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 submitted for approval herein as provided for use on other Units. 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, subject to conditions contained within the approval notice.

(c) After a Unit Owner has obtained the written consent of the Executive Board for any addition, alteration or improvement to his or her Unit, the Unit Owner shall obtain any necessary governmental permits required for such addition, alteration or improvement and the cost of such permit(s) shall be paid by the Unit Owner. There will be no liability created on the part of the Association or any of its members, except for the Unit Owner effecting such addition, alteration or improvement, to any contractor, sub-contractor 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.

(d) All additions, alterations and improvements to the Units and Common Elements shall not, except pursuant to prior approval by the Executive Board, cause any increase in the premiums of any insurance policies carried by the Association or by the owners of any Units other than those affected by such change.

(e) Any construction commenced without the written consent of the Executive Board will result in a penalty not to exceed \$100.00 (One Hundred Dollars) per day against the Unit Owner violating the provisions of this Article, as assessed by resolution of the Executive Board.

Section 12.2 - Additions, Alterations and Improvements by Executive Board. The Executive Board may make any additions, alterations or improvements to the Common Elements which, in its judgment, it deems necessary.

### ARTICLE XIII

#### Amendments to Declaration

Section 13.1 - General. Except as otherwise provided by law or elsewhere in this Declaration, this Declaration, including the Exhibits hereto, 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 - When Unanimous Consent Required. Except to the extent expressly permitted or required by provisions of the Act and this Declaration, an amendment may not increase the number of Units, change the number of Units, change the boundaries of a Unit, the Allocated Interests of a Unit, or the uses to which a Unit is restricted, in the absence of unanimous (100%) consent of the Unit Owners in the Association.

Section 13.3 - Execution of Amendments. An amendment to the Declaration required by AS 34.08.250 of the Act to be recorded by the Association, which has been adopted in accordance with this Declaration and AS 34.08.250 of 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 such designation, by the President of the Association.

Section 13.4 - Recordation of Amendments. Each amendment to the Declaration must be recorded in the recording district in which the Common Interest Community is located. The amendment is effective only upon recording.

Section 13.5 - Consent of Holders of Security Interests. Amendments are subject to the consent requirements of Article XVI.

Section 13.6 - 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 (1) year after the amendment is recorded.

Section 13.7 - Cost of Amendments. The proponent of any amendment will pay for the costs of preparation of the amendment and its recording, as well as the reasonable consultant fees incurred by the Association if the Executive Board deems it necessary to employ a consultant.

#### 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 Hearing 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.

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 Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of:

(a) Any condemnation loss or any casualty loss which affects the Common Elements, if such loss exceeds \$10,000.00, or any damage to an improvement or a Unit on which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable, if such damage exceeds \$10,000.00;

(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 the consent of a specified percentage of Eligible Mortgagees as specified in Section 16.4(b) of this Article; and

(e) Any judgment rendered against the Association.

Section 16.4 - Consent Required.

(a) Document Changes. Notwithstanding any lower requirement permitted by the 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 without approval in writing by at least fifty-one percent (51%) of

the Eligible Mortgagees. A "material" provision includes, but is not limited to, any provision affecting:

- 7.3
- (i) Assessments, assessment liens or priority of assessment liens;
  - (ii) Voting rights;
  - (iii) Reserves for maintenance, repair and replacement of Common Elements;
  - (iv) Responsibility for maintenance and repair;
  - (v) Reallocation of interests in the Common Elements;
  - (vi) Rights to use Common Elements;
  - (vii) Boundaries of Units;
  - (viii) Convertibility of Units into Common Elements or Common Elements into Units;
  - (ix) Expansion or contraction of the Common Interest Community, or the addition, annexation 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 hazard damage or partial condemnation in a manner other than that specified in the Documents;
  - (xv) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
  - (xvi) The benefits of mortgage holders, insurers or guarantors.

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

- (i) The establishment of self-management when professional management had been required previously by any Eligible Mortgagee;
- (ii) The restoration or repair of the Property after hazard damage or partial condemnation in a manner other than that specified in the documents;
- (iii) The merger of this Common Interest Community with any other Common Interest Community;
- (iv) 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 year);
- (v) The assignment of the future income of the Association, including its right to receive Common Expense assessments; or
- (vi) Any action taken not to repair or replace the Property.

(c) Actions requiring other than 51% mortgagee approval. The following actions by the Association require the consent of Eligible Mortgagees as specified below:

- (i) An eighty percent (80%) Eligible Mortgagee approval is required to convey or encumber the Common Elements or any portion thereof. (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) A sixty-seven percent (67%) Eligible Mortgagee approval is required for the termination of the Common Interest Community for reasons other than substantial destruction or condemnation;

- (iii) Subject to Warranty D3 of Alaska Housing Finance Corporation Guidelines, when Unit boundaries are not otherwise being affected, only the owners of Units affected and Eligible Mortgagees of those Units need approve the alteration of any partition or creation of any aperture between adjoining Units;
- (iv) The Association may not change the period for collection of regularly budgeted common expense assessments to other than monthly without the unanimous (100%) consent of Eligible Mortgagees.
- (d) Failure to Respond. The failure of an Eligible Mortgagee to respond within thirty (30) days to any written request of the Association for approval of an action or amendment to the Declaration shall constitute an implied approval of the action or amendment, provided that notice was delivered by certified or registered mail, with a "return receipt" requested.

Section 16.5 - Inspection of Books. The Association must maintain current copies of the Declaration, Bylaws, Rules, books, records and financial statements. The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the books and records of the Association during normal business hours and, upon request, furnish such Eligible Mortgagees or Eligible Insurers annual reports and other financial data.

Section 16.6 - 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.

Section 16.7 - 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 16.8 - Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend any meeting which a Unit Owner may attend.

Section 16.9 - Appointment of Trustee. In the event of damage or destruction within the Common Interest Community or condemnation of all or a portion of the Common Interest Community, any Eligible Mortgagee may require that insurance or condemnation proceeds be payable to a Trustee. Such Trustee may be required to be a corporate trustee licensed by the State of Alaska. Proceeds will thereafter be distributed pursuant to Article XXI 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 16.10 - 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 Instrument in the case of distribution of insurance proceeds or condemnation proceeds, whether such proceeds pertain to a Unit or Common Elements.

Section 16.11 - Right to Reimbursement. Eligible mortgagees of Units in Lakeside Terrace Townhouses may, jointly or singly, pay taxes or other charges, which are in default and which may or have become a charge against any Common Element owned by the Association and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the Common Elements. Eligible Mortgagees making such payments shall be owed immediate reimbursement from the Association.

## 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 share of the Common Expense liability established in Article IX of 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 which benefits from such service.

(b) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction on 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 a Common Expense is caused by the misconduct or failure to act 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 fines become due. Fees, charges, late charges, fines and interest charged pursuant to the Act, as it may be amended from time to time, and any of the Association's 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: (1) a lien or encumbrance recorded before the recordation of this Declaration; (2) a first security interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and, (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all security interests described in Subdivision (2) of this Subsection if the Common Expense assessment based on the periodic budget adopted by the Association, pursuant to Section 17.4 of this Article, would have become due in the absence of acceleration during the six (6) months immediately preceding the institution of an action to enforce the Association's lien. This 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 09.38.010, as it may be amended from time to time.

(c) Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for assessments under this Section is not required.

(d) A lien for unpaid assessments 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 U.S. Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under § 362 of the U.S. Bankruptcy Code is lifted.

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

(f) When the Association acquires a judgment or decree in any action brought under this Section, such judgment or decree shall include an award to the Association for actual collection costs and reasonable attorney's fees.

(g) A judgment or decree in an action brought under this Section is enforceable by execution under AS 09.35.010, as it may be amended from time to time.

(h) The Association's lien must be foreclosed as a lien is foreclosed under AS 34.35.005, as it may be amended from time to time.

(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 17.4 of this Article.

(j) The purchaser at a foreclosure sale initiated by the holder of a security interest in a Unit is not liable for any unpaid assessments against the Unit which became due before the sale, other than the assessments which are prior to that security interest under Subsection 17.3(b) above. Any unpaid assessments not satisfied from the proceeds of sale become common expenses for which all the Unit Owners, including the purchaser, may be assessed. For the purposes of this paragraph "the purchaser" shall include, but not be limited to, any holder of a security interest in a Unit which obtains title to a Unit.

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

(l) The Association may acquire, hold, lease, mortgage and convey a Unit foreclosed upon pursuant to this Section for unpaid assessments.

(m) A lien under this Section shall not be affected by any sale or transfer of a Unit except as provided in Subsection (j) above.

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) or 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 - 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 Article, the Executive Board shall submit such Common Expenses to the Unit Owners for their consideration and comment in the same manner as a budget under Section 17.4 above.

Section 17.6 - Certificate 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 his or her Unit. The statement must be furnished within ten (10) business days after receipt of the request and is binding upon the Association, the Executive Board and each Unit Owner.

Section 17.7 - Monthly Payment of Common Expenses. All Common Expenses assessed under this Article XVII shall be due and payable on the first day of each and every month.

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 - 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 17.10 - 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 in writing. Such agreement shall be provided to the Association.

Section 17.11 - Nonpayment of Septic System Assessments. The Association may suspend septic system service for nonpayment of assessments for septic system service for the period of time those assessments remain unpaid, however, septic system service shall be promptly restored when payment of the assessment is made.

ARTICLE XVIIIRight 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 and subject to Article XVI hereof with regard to obtaining mortgagees' consent.

ARTICLE XIXPersons 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, including the Book of Resolutions, as it may be amended from time to time. 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 Palmer Recording District, Third Judicial District, State of Alaska, are covenants running with the land and shall bind any persons having at any time any interest in such Unit.

Section 19.2 - Adoption of Rules. After Notice and Hearing the Executive Board may adopt Rules (Resolutions) regarding the use of the Common Elements and the use and occupancy of Units, and the activities of occupants as they affect the Common Elements and the unity and harmony of the project.

ARTICLE XXInsurance

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 United States mail to all Unit Owners and Eligible Mortgagees at their respective last known addresses.

Section 20.2 - Property Insurance.

(a) The insurance maintained under this Section shall include the Units but not the personal property installed by Unit Owners and not permanently attached to the Units. The master policy for

the Project will cover carpeting, cabinets, plumbing fixtures, etc. which are considered permanently attached to the Units.

(b) The Association shall maintain property insurance on the Common Elements insuring against all risks of direct physical loss commonly insured against. The total amount of insurance after application of any deductibles shall be not less than one hundred percent (100%) of the actual cash value of the insured property at the time the insurance is purchased, and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. The Association shall maintain insurance in an amount equal to the actual cash value of personal property owned by the Association. Prior to obtaining any insurance on Common Elements under this section, and at least annually thereafter, the Executive Board shall take reasonable steps satisfactory to the insurance company to determine the replacement cost of the Common Elements or obtain an agreed amount endorsement. The maximum deductible for insurance policies shall be the lesser of \$10,000.00 or one percent (1%) of the policy face amount, whichever is less.

(c) 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 to 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 Association's policy 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 address; and

*pmt of proceeds*

(vii) The name of the insured shall be substantially as follows:

"LAKESIDE TERRACE TOWNHOUSES, INC. 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 (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 the 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; and

(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 is required 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 (3) 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 servicer that services a FNMA-owned, VA-owned, FHLMC-owned, or AHFC-owned mortgage on a Unit and to the insurance trustee, if any, before the bond can be canceled 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.

Section 20.6 - Workers' Compensation Insurance. The Board of Directors 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 unit owner of a unit that will not be rebuilt, vote not to rebuild.

Section 21.2 - Cost. The cost of repair or replacement of the Common Elements 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.

Section 21.4 - Insurance Proceeds.

(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) 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 Section 21.1, 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 21.5 - 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 21.6 - Certificates by Attorneys or Title Reports. Title insurance companies or, 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's or an attorney's certificate of title or a title insurance policy based on a search of the records of the District Recorder's Office, Palmer Recording District, Third Judicial District, State of Alaska, from the date of the recording of the original above-described 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. 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 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 five (5) 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. Before the Executive Board amends the Bylaws or the Rules, or 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 interests 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. The notice shall be given not less than five (5) days before the hearing date. 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.

## ARTICLE XXIII

### Executive Board

Section 23.1 - Association Records and Minutes of Executive Board Meetings. The Executive Board shall permit any Unit Owner, or holder, insurer or guarantor of first mortgages secured by Units, to inspect the records of the Association and the minutes of Executive Board and committee 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) Develop a budget that does not exceed a 3% increase over the previous year's budget;
- (c) Adopt and amend budgets for revenues, expenditures and reserves;
- (d) Collect assessments for Common Expenses from Unit Owners;
- (e) Hire and discharge managing agents;
- (f) Hire and discharge independent contractors, employees and agents, other than managing agents;
- (g) 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;
- (h) Make contracts and incur liabilities;
- (i) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (j) Cause additional improvements to be made as part of the Common Elements;
- (k) 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;
- (l) 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;
- (m) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, and for services provided to Unit Owners;
- (n) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy reasonable fines

for violations of this Declaration, Bylaws, Rules and Regulations of the Association;

(o) 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;

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

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

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

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

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

(u) By resolution, establish committees chaired by Directors, permanent and standing, which may be composed of owners and non-owners, 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 Board of Directors. However, actions taken by a committee may be appealed to the Board of Directors 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 Board of Directors 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, except in accordance with Article XIII above, 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 the 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 provided in Section 24.3 below.

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 mailing such notice to each Unit Owner and/or 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: (a) if no action is taken at the executive session requiring the affirmative vote of Directors, or (b) if the action taken at the executive session involves personnel, pending litigation, contract negotiations, or enforcement actions, matters involving the invasion of privacy of individual unit owners, matters which are to remain confidential by request of the affected parties and agreement of the Executive Board, or action taken by unanimous consent of the Executive Board.

#### 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

##### Miscellaneous

Section 26.1 - 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 26.2 - 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 26.3 - 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 26.4 - 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 26.5 - Conflict. The Documents are intended to comply with the requirements of the Act and Chapter 10.20 of the Alaska Statutes (Non-Profit Corporation Law). In the event of any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

Section 26.6 - 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.

IN WITNESS WHEREOF, after the vote and approval of the Unit Owners on January 15, 1994, the Association has caused this Declaration to be executed this 23<sup>rd</sup> day of November, 1994. The signed consents to amendment by lot owners and first mortgagees are attached hereto as Exhibit B.

LAKESIDE TERRACE TOWNHOUSES, INC.

By: Lois M. Wier

Its President

STATE OF ALASKA )  
 ) ss  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this 23<sup>rd</sup> day of November, 1994, before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Lois M. Wier, to me known and known to me to be the President of LAKESIDE TERRACE TOWNHOUSES, INC., and known to me to be the person who signed the foregoing instrument, on behalf of said corporation, and he/she acknowledged to me that he/she signed and sealed the same as a free act and deed of the said corporation for the uses and purposes therein expressed pursuant to its Bylaws or a resolution of its Board of Directors.

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

Alia C. Lang  
Notary Public in and for Alaska  
My commission expires 8/10/98

EXHIBIT "A"

BOOK 0789 PAGE 245

to

D E C L A R A T I O N

for

LAKESIDE TERRACE TOWNHOUSES

EASEMENTS AND/OR LICENSES

1. Reservations and exceptions as contained in the United States Patent and/or in acts authorizing the issuance thereof.
2. Easements as shown on plats of record.

EXHIBIT "B"

BOOK 0789 PAGE 246

to

D E C L A R A T I O N

for

LAKESIDE TERRACE TOWNHOUSES

UNIT OWNER AND MORTGAGEE CONSENTS  
TO AMENDMENT

(See following pages.)