

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
PURSUANT TO THE
UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)

FOR

HIDDEN COVE PHASE III
(A Planned Community Within Southport)

THIS DECLARATION is made on the 16th day of July, 2001 by Discovery Construction, Inc., hereinafter referred to as "Declarant."

Declarant is the owner of the real property described in Exhibit A and submits said real property described in Exhibit A to the provisions of the Common Interest Ownership Act (the "Act"), AS 34.08 of the Alaska Statutes, for the purpose of creating Hidden Cove Phase III (A Planned Community Within Southport).

ARTICLE 1.
DEFINITIONS

Section 1.1. ACT.

"Act" means the Uniform Common Interest Ownership Act, Title 34 Chapter 8, of the Alaska Statutes, and any amendments thereto.

Section 1.2. AFFILIATE OF DECLARANT.

"Affiliate of Declarant" means any person or entity which controls, is controlled by, or is under common control with, a Declarant. A person or an entity shall be deemed to control a Declarant if that person or entity (i) is a general partner, officer, director, or employee of Declarant; (ii) directly or indirectly are acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting shares of Declarant; (iii) controls in any manner the election of a majority of the directors of Declarant; or (iv) has contributed more than twenty percent (20%) of the capital of Declarant. A person or entity shall be deemed to be controlled by Declarant if Declarant (i) is a general partner, officer, director, or employee of that person or entity; (ii) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing more than twenty percent (20%) of the voting share of that person or entity; (iii) controls in any manner the election of a majority of the directors of that person or entity; or (iv) has contributed more than twenty percent (20%) of the capital of that person or entity.

Section 1.3. AHFC.

"AHFC" means Alaska Housing Finance Corporation.

Section 1.4. ALLOCATED INTERESTS.

"Allocated Interests" means the following interests allocated to each unit: the undivided interest in the Common Elements, the Common Expense Liability, and votes in the Association. The Allocated Interests are described in Article 7, infra, and are shown in Exhibit C.

Section 1.5. ASSOCIATION.

"Association" means the Unit Owners' association, Hidden Cove Phase III Homeowners Association, a non-profit corporation organized under AS 10.20, et seq., pursuant to AS 34.08.310.

Section 1.6. BYLAWS.

"Bylaws" means the bylaws of the Association, as they may be amended from time to time.

Section 1.7. COMMON ELEMENTS.

"Common Elements" means each portion of the Common Interest Community other than a Unit and other than real estate in which Declarant has reserved Development Rights.

Section 1.8. COMMON EXPENSES.

"Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.

Section 1.9. COMMON EXPENSE LIABILITY.

"Common Expense Liability" means the liability for Common Expenses allocated to each Unit under AS 34.08.150.

Section 1.10. COMMON INTEREST COMMUNITY.

"Common Interest Community" means the real estate with respect to which a Person, by virtue of ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or Improvement of other real estate described in the Declaration. The Common Interest Community described herein is a planned unit development within Southport.

Section 1.11. DEALER.

"Dealer" means a person who owns either six or more units in the Common Interest Community or fifty percent (50%) or more of the units in the Common Interest Community.

Section 1.12. DECLARANT.

"Declarant" means Discovery Construction, Inc., an Alaska corporation, or its successor, as described in AS 34.08.990(12).

Section 1.13. DECLARATION.

"Declaration" means this document, including its attachments, exhibits, and amendments, which creates the Common Interest Community.

Section 1.14. DEVELOPMENT RIGHT.

"Development Right" means a right or a combination of rights reserved by Declarant in the Declaration to: (a) add real estate to a Common Interest Community; (b) create Units, Common Elements, or Limited Common Elements within a Common Interest Community; (c) subdivide Units or convert Units into Common Elements; or (d) withdraw real estate from a Common Interest Community.

Section 1.15. DIRECTOR.

"Director" means a member of the Executive Board.

Section 1.16. DISPOSE.

"Dispose" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not mean any transfer or release of a security interest.

Section 1.17. DOCUMENTS.

"Documents" means the Declaration, the 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 or certification accompanying the Declaration, Plans, Bylaws and/or Rules is part of the Documents.

Section 1.18. ELIGIBLE INSURER.

"Eligible Insurer" means 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.

Section 1.19. ELIGIBLE MORTGAGEE.

"Eligible Mortgagee" means the holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address, and that is holds a first Security Interest in a Unit.

Section 1.20. EXECUTIVE BOARD.

"Executive Board" or "Board" means the Board of Directors of the Association.

Section 1.21. FHLMC

"FHLMC" means the Federal Home Loan Mortgage Corporation.

Section 1.22. FNMA

"FNMA" means the Federal National Mortgage Association.

Section 1.23. IMPROVEMENTS.

"Improvements" means any existing construction or facilities, or any facilities that are to be constructed, on the land which is described in Article 3, including but not limited to buildings, trees and shrubbery planted by the Declarant or the Association, landscaping, paving, sidewalks, additions, utility wires, pipes, and light poles.

Section 1.24. IDENTIFYING NUMBER.

"Identifying Number" means the lot and block number of each Unit in the Common Interest Community.

Section 1.25. LIMITED COMMON ELEMENTS.

"Limited Common Elements" means the portion of the Common Elements allocated by the Declaration for the exclusive use of one or more but fewer than all of the Units.

Section 1.26. MAJORITY OF UNIT OWNERS.

"Majority of Unit Owners" means the owners of more than fifty percent (50%) of the votes in the Association.

Section 1.27. MANAGER.

"Manager" means a person, business, firm, or corporation employed, contracted, or otherwise engaged to perform management services for the Association.

Section 1.28. MASTER ASSOCIATION.

"Master Association" means an organization described in AS 34.08.280. The Master Association for the unit owner associations in Southport, including Hidden Cove Phase III (A Planned Community Within Southport), is the "Master Association for Southport (a Master Planned Community)."

Section 1.29. NOTICE AND COMMENT.

"Notice and Comment" means the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment on such action. The procedures for Notice and Comment are set forth in Section 24.2 of this Declaration.

Section 1.30. NOTICE AND HEARING.

"Notice and Hearing" means 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 on such action. The procedures for Notice and Hearing are set forth in Section 24.1 of this Declaration.

Section 1.31. PERSON.

"Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity. In the case of a land trust, "Person" means the beneficiary of the land trust and not the land trust or its trustee.

Section 1.32. PLANS.

"Plans" means the plans and/or plat recorded and attached to this Declaration as Exhibit B, as it may be amended from time to time, and as required by AS 34.08.170.

Section 1.33. PROPERTY.

"Property" means the Common Interest Community, the real property described in Exhibit A, any real property added to the Common Interest Community by amendment, Improvements, easements, Units, rights, and appurtenances, which have been submitted to the provisions of the Act by this Declaration.

Section 1.34. PURCHASER.

"Purchaser" means a Person, other than the Declarant or Dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a Unit other than a leasehold interest, including renewal options, of less than forty (40) years, or a security for an obligation.

Section 1.35. RESIDENTIAL PURPOSES.

"Residential Purposes" means use for dwelling or recreational purposes, or both.

Section 1.36. RULES.

"Rules" means rules for the use 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 1.37. SECURITY INTEREST.

"Security Interest" means an interest in real property 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 the Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.38. SPECIAL DECLARANT RIGHTS.

"Special Declarant Rights" means the rights reserved for the benefit of a Declarant to:

- a. complete Improvements indicated on the Plans filed with the Declaration;
- b. exercise any Development Right;
- c. convey utility and drainage easements to utility companies and the Municipality of Anchorage, respectively, in Declarant's own name and on behalf of the Association; and convey public use easements in any common elements. As a condition of their purchase, all purchaser's are deemed to have consented to any such conveyances;
- d. maintain sales offices, management offices, models, and signs advertising the Common Interest Community;

e. use and maintain easements through the Common Elements for the purpose of making Improvements within the Common Interest Community or within real estate that may be added to the Common Interest Community;

f. make the Common Interest Community subject to the Master Association;

g. merge or consolidate the Common Interest Community with another Common Interest Community of the same form of ownership; or

h. appoint or remove an officer of the Association or the Master Association or any Executive Board member during any period of Declarant control.

Special Declarant Rights are more fully described in Article 6 of this Declaration.

Section 1.39. TIME SHARE.

"Time Share" means a right to occupy a Unit or any of several Units during five (5) or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with an estate or interest in a Common Interest Community or a specified portion of a Common Interest Community.

Section 1.40. TRUSTEE.

"Trustee" means 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. If no Trustee has been designated, the Trustee will be the Executive Board, acting by majority vote, as executed by the president and attested by the secretary.

Section 1.41. UNIT.

"Unit" means a physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described in Section 5.3 of this Declaration.

Section 1.42. UNIT OWNER.

"Unit Owner" means the Declarant or other Person who owns a Unit or holds the possessory interest under a real estate purchase contract. "Unit Owner" does not include a Person having an interest in a Unit solely as security for an obligation. Nor does "Unit Owner" include a Person having a leasehold interest,

including renewal options, of less than forty (40) years in a unit. The Declarant is the initial owner of the Units created by this Declaration.

ARTICLE 2.
NAMES OF THE COMMON INTEREST
COMMUNITY AND ASSOCIATION

Section 2.1. COMMON INTEREST COMMUNITY.

The name of the Common Interest Community is Hidden Cove Phase III (A Planned Community Within Southport), a planned community.

Section 2.2. ASSOCIATION.

The name of the Association is Hidden Cove Phase III Homeowners Association, a non-profit corporation organized under the laws of the State of Alaska.

ARTICLE 3.
DESCRIPTION OF REAL ESTATE

The Common Interest Community is situated in the Municipality of Anchorage, State of Alaska, and includes the real property described in Exhibit A.

ARTICLE 4.
PERSONS SUBJECT TO DOCUMENTS AND THE ACT

Section 4.1. COMPLIANCE WITH DOCUMENTS.

All Unit Owners, tenants, mortgagees, and occupants of the Units shall comply with the Documents and the Act. The acceptance of a deed, the entering into a lease, the exercise of any incident of ownership, 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. All Documents recorded in the Anchorage 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 or estate in any Unit of the Common Interest Community.

Section 4.2. COMPLIANCE WITH RULES.

Subject to Notice and Comment, the Executive Board may adopt Rules regarding the use and occupancy of Units, any Common Elements, any Limited Common Elements, and the activities of occupants of the Units. All Unit Owners, tenants, mortgagees, and occupants of the Units shall comply with the Rules.

ARTICLE 5.

NUMBER OF UNITS, UNIT IDENTIFICATION, AND UNIT BOUNDARIESSection 5.1. NUMBER OF UNITS.

The Common Interest Community upon creation consists of sixty-three (63) units. No additional units are anticipated.

Section 5.2. UNIT IDENTIFICATION.

All Units have an Identifying Number. These numbers, the lot number of each unit, are shown on the Plans.

Section 5.3. UNIT BOUNDARIES.

The boundaries of each Unit in Hidden Cove Phase III (A Planned Community Within Southport) are the boundaries of the numbered lots created by Plat No. 2001-50, filed in the records of the Anchorage Recording District, Third Judicial District, State of Alaska, and are shown on the Plans attached to this Declaration as Exhibit B.

ARTICLE 6.

SPECIAL DECLARANT RIGHTS AND DEVELOPMENT RIGHTSSection 6.1. SPECIAL DECLARANT RIGHTS.

The Declarant reserves the following rights, to the maximum extent permitted by law, to be exercised anywhere within the Common Interest Community or within real estate that may be added to the Common Interest Community. Declarant may:

a. complete Improvements indicated on Plans filed with the Declaration;

b. exercise any Development Right including the rights to (i) add real estate presently outside of Hidden Cove Phase III (A Planned Community Within Southport) to the Common Interest Community; (ii) create Units, Common Elements, or Limited Common Elements within the Common Interest Community. Declarant may, at the time it adds any additional Units and/or Common Elements to the Common Interest Community, specify restrictions on use, occupancy, and alienation, as well as standards for architectural controls for the additional Units and/or Common Elements, should Declarant determine that, in its sole discretion, that restrictions and standards different than those contained in this Declaration are appropriate; (iii) subdivide Units or convert Units into Common Elements; or (iv) withdraw real estate from the Common Interest Community.

c. convey utility and drainage easements to utility companies and the Municipality of Anchorage, respectively, in Declarant's own name and on behalf of the Association; and convey public use easements in any common elements. As a condition of their purchase, all purchaser's are deemed to have consented to any such conveyances;

d. maintain sales offices, management offices, models, and signs advertising the Common Interest Community;

e. use and maintain easements through the Common Elements for the purpose of making Improvements within the Common Interest Community or within real estate that may be added to the Common Interest Community;

f. make the Common Interest Community subject to the Master Association.

g. merge or consolidate the Common Interest Community with another Common Interest Community of the same form of ownership; or

h. appoint or remove an officer of the Association or a Master Association or any Executive Board member during any period of Declarant control.

Section 6.2. NO 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 Declarant.

Section 6.3. PERSONAL PROPERTY OF DECLARANT.

The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction, and maintenance of the Common Interest Community that Declarant has not explicitly represented as Property of the Association. The Declarant reserves the right to remove from the Property any and all goods, models, and Improvements used in development, marketing, and construction, whether or not they have become fixtures.

Section 6.4. DECLARANT'S EASEMENT FOR CONSTRUCTION.

The Declarant reserves the right to perform warranty work, repairs, 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 the completion of any such repair or work. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has an easement through the Common Elements

as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising any Development or Special Declarant Rights, whether arising under the Act or reserved in this Declaration. Such easement also includes the Declarant's right to convey utility and drainage easements to public utilities, municipalities, the State, riparian owners, or upland owners.

Section 6.5. SALES ACTIVITIES.

Notwithstanding any contrary provisions of Section 11.5, Declarant reserves the right to post signs and displays in the Common Elements to promote sales of Units, and to conduct general sales activities, in a manner which does not unreasonably disturb Unit Owners' rights.

Section 6.6. UNIT OWNERSHIP BY DECLARANT.

Until Declarant no longer owns any Units in the Common Interest Community, the Declarant and its duly authorized agents, representatives, and/or employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit, sales office, or management office.

Subject to the provisions of this Article, Declarant enjoys the same rights and assumes the same duties as they relate to individual Units which have not been conveyed to Unit Owners other than Declarant.

Section 6.7. DECLARANT CONTROL.

a. Subject to subsection 6.7.b hereof, there shall be a period of Declarant control of the Association, during which the Declarant, or any Person designated by it, may, in its sole discretion, appoint and remove the officers and members of the Executive Board and/or officers of the Association, and any Association representative to the Master Association. The period of Declarant control shall terminate as required by the Act and 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 a Declarant;

ii. two (2) years after all Declarants have ceased to offer Units for sale in the ordinary course of business;

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

iv. five (5) years after the first Unit in the Common Interest Community is conveyed to Unit Owners other than a Declarant.

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 the Declarant, be approved by the Declarant before they become effective.

b. 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 a Declarant, at least one 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 a Declarant, not less than thirty-three and one-third percent ($33\frac{1}{3}\%$) of the members of the Executive Board must be elected by Unit Owners other than the Declarant.

c. 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, at least a majority of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

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

Section 6.8. TRANSFERENCE OF DECLARANT RIGHTS.

Declarant may transfer any and all rights reserved by this Declaration to a transferee Declarant pursuant to AS 34.08.350.

Section 6.9. LIMITATIONS.

a. The Declarant or Affiliate of Declarant may not bind the Association to any management contract, employment contract, lease of facilities, licenses, or other contracts or leases unless the Association has the right of termination thereof, exercisable

without penalty with not more than ninety (90) days' notice to the other party.

b. Unless Declarant has previously terminated its Special Declarant Rights by recorded instrument or unless sooner terminated by the Act, any Special Declarant Right, except for Development Rights, may be exercised by the Declarant so long as: (1) the Declarant is obligated under any warranty or obligation, owns any Units, or has any Security Interest in any Units; or (2) for twenty (20) years after recording the original Declaration, as long as Declarant continues to be obligated under any warranty or obligation, own any Units, or continues to have any Security Interest in any Units.

c. Carr-Gottstein Properties Limited Partnership, as predecessor declarant and by agreement with the Declarant, has reserved the right by recorded amendment and may enforce during the period of Declarant control the covenants, conditions and restrictions of the Declaration.

Section 6.10. CONSTRUCTION OF MAILBOXES.

Declarant reserves the right and has an easement on any portion of the Common Interest Community to construct centralized mailbox facilities for the Units and any necessary appurtenances.

Section 6.11. GOVERNMENTAL INTERESTS.

So long as the Declarant owns any Property described on Exhibit "A" or added by amendment to the common interest community, the Declarant may designate sites within the Properties for fire, police, utility facilities, public schools and parks, and other public facilities. The sites may include Common Elements.

Section 6.12. CONFLICT.

If any provisions of this Article conflict with other provisions of this Declaration, this Article shall control.

ARTICLE 7.
ALLOCATED INTERESTS

Section 7.1. TABLE OF ALLOCATED INTERESTS.

The Table of Interest, attached as Exhibit C, reflects Units and their Allocated Interests. These interests have been allocated in accordance with the formulas set out in this Article.

Section 7.2. ALLOCATION FORMULAS.

a. VOTES. Each Unit in the Common Interest Community shall have one equal vote.

b. UNDIVIDED INTERESTS. The percentage of liability for any Common Expenses and for the undivided interest in the Common Elements allocated to each Unit is an equal percentage interest derived by dividing the total number of Units in the Common Interest Community into one hundred percent (100%). The specified percentage is set forth in Exhibit C. When Units are added to or removed from the Common Interest Community, the above formula shall be used in reallocating interest and liabilities of Units and a revised Exhibit C shall be recorded in an amendment to the Declaration. Nothing in this subsection shall preclude apportionment of Common Expenses pursuant to Article 8.

ARTICLE 8.

COMMON EXPENSE ASSESSMENT AND COLLECTION

Section 8.1. COMMON EXPENSE APPORTIONMENT.

Except as otherwise provided in Section 8.2, any Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Expenses. See Table of Interest, attached as Exhibit C.

Section 8.2. APPORTIONMENT OF COMMON EXPENSES TO LESS THAN ALL UNITS.

a. Any Common Expenses associated with the maintenance, repair, or replacement of any Limited Common Element which serves exclusively one Unit shall be assessed against that Unit. If any Limited Common Element serves more than one Unit, but less than all Units, the Common Expenses attributable to that Limited Common Element shall be assessed equally among the Units it serves.

b. Any Common Expenses for services provided by the Association for the benefit of an individual Unit at the request of the individual Unit Owner shall be assessed against said Unit.

c. If an expense to the Association is caused by the misconduct of a Unit Owner, the Unit Owner's family members, guests, or invitees, the Association may assess that expense exclusively against the Unit.

d. Any Common Expense insurance premium increase attributable to a particular Unit by virtue of activities in the Unit or by the Unit Owner, or by a Unit Owner's loss history, shall be assessed against that Unit.

e. 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 percentage interests in the Common Expenses at the time judgment was entered.

f. Any 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 8.3. LIEN.

a. The Association shall have a lien on a Unit for any assessment levied against the Unit and/or for any fines, fees, charges, late charges, collection costs, and/or interest imposed against its Unit Owner from the time any such assessment or fines, fees, charges, late charges, collection costs, and/or interest become due. The full amount of the assessment, fines, fees, charges, late charges, collection costs, and/or interest is a lien from the time the first installment thereof becomes due. Subject to subsection 8.3.h, liens under this section are not affected by sale or transfer of a Unit.

b. The recordation of this Declaration constitutes record notice and perfection of the lien. This Section does not require further recording of a claim of lien for assessment.

c. The Association's lien must be foreclosed pursuant to AS 34.35.005 as it may be amended from time to time.

d. A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) a first Security Interest on a Unit recorded before the date on which the assessments sought to be enforced became delinquent, unless such assessments, based on the periodic budget adopted by the Association pursuant to Section 8.4, 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 this Section; (2) liens for real estate taxes and other governmental assessments or charges against the Unit; and (3) liens and encumbrances recorded before the recordation of the Declaration.

This subsection does not affect the priority of mechanic's 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.

e. Subject to subsection 8.3.f, 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.

f. 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 lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

g. This Section shall not be construed to prohibit an action to recover sums for which subsection 8.3.a. creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

h. 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 8.3.d. Any unpaid assessments not satisfied from the proceeds of the foreclosure sale become Common Expenses collectible from all the Unit Owners, including said purchaser. "Purchaser," for purposes of this subsection, includes any Security Interest holder that obtains title through foreclosure.

i. If the Association commences any action to foreclose a lien for unpaid assessments or to otherwise collect assessments, the court may appoint a receiver of the Unit Owner. The court may then order the receiver to: (1) collect all sums alleged to be due from the Unit Owner prior to or during the pendency of the action; (2) 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; and (3) take any other actions consistent with this Declaration and the Act.

j. A judgment or decree in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party and is enforceable by execution under AS 09.35.010.

k. If the Association forecloses on a Unit pursuant to this Section for unpaid assessments, the Association may hold, mortgage, lease, and convey such Unit.

l. Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied first to interest, late charges, collection costs, fines, and fees, and then to the oldest balance due from the Unit Owner for Common Expense assessments.

Section 8.4. ADOPTION AND RATIFICATION OF PROPOSED BUDGET.

Within thirty (30) days after adoption of a proposed budget for the Common Interest Community, the Executive Board shall mail or otherwise provide a summary of the proposed budget to each Unit Owner, and shall set a date for a meeting fourteen (14) to thirty (30) days from mailing or otherwise providing the summaries to the Unit Owners, for the Unit Owners to consider ratification of the budget. Unless a Majority of Unit Owners reject the proposed budget at that meeting, the budget is ratified. 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 8.5. NONBUDGETED COMMON EXPENSES.

If the Executive Board votes to levy a Common Expense assessment not included in the current budget and not attributable to fewer than all Units as described in Section 8.2, the Common Expense assessment shall be submitted to the Unit Owners and ratified in accordance with Section 8.4.

Section 8.6. CERTIFICATION OF UNPAID ASSESSMENTS.

Upon a Unit Owner's written request, the Association shall provide a statement in recordable form setting out the amount of unpaid assessments against the Unit. The Association must provide the statement within ten (10) business days after it receives the Unit Owner's request and is binding on the Association, the Executive Board, and each Unit Owner.

Section 8.7. COMMON EXPENSES TO BE PAID MONTHLY.

All Common Expenses assessed under this Section shall be due and payable monthly.

Section 8.8. ASSESSMENT RESERVE FUND.

Upon recordation of a deed to the first Unit Owner other than the Declarant of an interest in the Common Interest Community, the Unit Owner, and each subsequent Unit Owner in the Association, shall establish an assessment reserve fund with the Association. The assessment reserve fund shall equal the projected assessments to the Unit Owner for a two-month period. In addition, the Unit Owner shall pay to the Association the regular monthly assessment as provided herein, the purpose being to have available at all times for the Association an assessment reserve fund equal to two (2) months of assessments.

The assessment reserve fund shall be maintained at all times just as a reserve for taxes and insurance as so maintained, and in

the event of a subsequent transfer of the Unit Owner's interest in the Common Interest Community, the subsequent Purchaser shall be responsible for establishing and maintaining this reserve fund. The reserve fund must be segregated from the Association's operating account.

Declarant may not use the assessment reserve fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association.

Section 8.9. ACCELERATION.

In the event of a Unit Owner's default for a period of ten (10) days or more on 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 for that Unit to be immediately due and payable.

Section 8.10. COMMENCEMENT OF ASSESSMENTS.

Common Expense assessments shall commence on the first day of the month in which the first Unit is conveyed to a Unit Owner other than the Declarant.

Section 8.11. NO EXEMPTION FROM COMMON EXPENSES.

Unit Owners may not exempt themselves from liability for payment of the Common Expenses by either waiver of the use or enjoyment of the Common Elements or by abandonment of their Units.

Section 8.12. PERSONAL LIABILITY FOR ASSESSMENTS.

A Unit Owner is personally liable for any Common Expense assessments which become due and payable during his or her ownership of the Unit. In absence of a successor's written agreement to assume a Unit Owner's obligation, personal liability for such assessments shall not pass to a successor in title to the Unit.

ARTICLE 9. MAINTENANCE AND REPAIR

Section 9.1. UNITS.

Each Unit Owner shall maintain, repair, and replace, at his or her own expense, all portions of his or her Unit, including all landscaping and fencing in any easements within the Unit Boundaries, except the portions thereof which may otherwise be

required by this Declaration or by the Association to be maintained, repaired or replaced by other Persons.

Section 9.2. COMMON ELEMENTS.

The Association shall maintain, repair, and replace all such Common Elements except any Limited Common Elements or other Common Elements which are required by this Declaration to be maintained, repaired or replaced by less than all Unit Owners. The Association may transfer responsibility for maintenance of any Common Elements to the Southport Master Association.

Section 9.3. LIMITED COMMON ELEMENTS.

At the time this Declaration is recorded, Declarant has not assigned any Limited Common Elements to Units in Hidden Cove Phase III Homeowners Association. However, if Declarant subsequently allocates any such Limited Common Elements, Common Expenses associated with the maintenance, cleaning, repair, or replacement of the Limited Common Elements will be assessed against the Unit(s) to which the Limited Common Element(s) is (are) assigned.

Section 9.4. RIGHT OF 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 any installations, alterations, repairs, and/or utility work to include meter reading, equipment, upgrades, and/or repairs, provided that requests in advance for entry are made and that any such entry is at a reasonably convenient time for the affected Unit Owner except in cases of emergencies, where 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 9.5. NEGLIGENCE.

Each Unit Owner will reimburse the Association for any damages to any other Unit or to the Common Elements caused by that Unit Owner's: intent or negligence; failure to properly maintain, repair, or make replacements to his or her Unit or to the Limited Common Elements assigned to his or her Unit; or failure to permit timely access to his or her Unit by any Person authorized such access by Section 9.4. The Association shall assess expenses to the responsible Unit Owners only after Notice and Hearing.

The Association will be responsible for damage to Units caused by its intent, negligence, or by its failure to maintain, repair, or make replacements to the Common Elements.

ARTICLE 10.
CONVEYANCE OR ENCUMBRANCE OF COMMON ELEMENTS

Section 10.1. UNIT OWNER AGREEMENT.

Subject to other provisions of the Act, and subsection 19.7.d of this Declaration, portions of the Common Elements may be conveyed or subjected to a Security Interest by the Association if persons entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by a Declarant, agree to the action, but each Unit Owner to which any Limited Common Element is allocated must agree in order to convey such Limited Common Element or subject it to a Security Interest. The proceeds of the sale or any loan secured by the encumbrance or sale of any Common Elements are assets of the Association.

Section 10.2. RECORDATION OF AGREEMENT.

An agreement to convey any Common Elements or to subject any 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 and each ratification of the agreement must be recorded in the Anchorage Recording District and is effective only upon recording.

Section 10.3. CONTRACTS BY THE ASSOCIATION.

The Association, on behalf of the Unit Owners, may contract to convey an interest in the Common Interest Community pursuant to Section 10.1, but such contract is not enforceable against the Association until approved, ratified, and recorded pursuant to Sections 10.1 and 10.2. After such approval, ratification, and recordation, the Association shall have the powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute a deed or other instrument.

Section 10.4. UNIT INTEREST IN THE COMMON ELEMENTS.

Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Common Elements will be void unless the Unit to which that interest is allocated is also transferred.

ARTICLE 11.
RESTRICTIONS ON USE, OCCUPANCY, AND ALIENATION

Section 11.1. SINGLE-FAMILY RESIDENCE.

Residences shall be used exclusively for single-family Residential Purposes except as provided for in Section 11.8.

Section 11.2. NUISANCES.

No noxious or offensive activities shall be carried on upon any land subject to this Declaration, nor shall anything be done therein which might be, or may become, an annoyance or nuisance to the Common Interest Community. Such nuisances include the use of any heavy equipment or derelict automobiles.

Section 11.3. WASTE REMOVAL.

Trash, garbage, refuse, or other waste shall be disposed of through a household garbage disposal or wrapped in a secure package and deposited into a designated trash container. No owner of a Unit shall permit or cause any trash, garbage, refuse, or other waste to be disposed of on any portion of the Property except in a designated trash container. No portion of the Property shall be used for the storage of building materials, refuse, or any other materials other than in connection with approved construction.

Section 11.4. VEHICLE RESTRICTIONS.

No wrecked, inoperative, vandalized, or otherwise derelict-appearing automobiles, and no trucks, trailers, mobile homes, truck campers, detached camper units or boats shall be kept, placed, stored, or maintained upon any land subject to this Declaration, except within an enclosed garage.

Section 11.5. SIGNS.

Subject to Section 6.5, no signs of any kind shall be displayed to the public on any land subject to this Declaration, except that a Unit Owner may post one sign of not more than five (5) square feet advertising his or her Unit for sale or rent, and Declarant or Dealer may post one sign per lot, not to exceed twenty-five (25) square feet to advertise Units until they are first sold to a Unit Owner other than Declarant or Dealer.

Section 11.6. PET REGULATIONS.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept in any Unit, except domestic dogs, cats, or other normal household pets, provided that they are not kept, bred, or maintained for commercial purposes, and provided that all dogs

shall be restrained as necessary to prevent them from becoming a nuisance. Except as otherwise provided in writing by the Executive Board, no more than two dogs, or one dog and one cat, or two cats may be kept in any Unit or on any Limited Common Element of any Unit. The Association shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Executive Board, a nuisance to any other Unit Owner. Any Unit Owner shall be liable to each and all other Unit Owners, their families, guests and invitees, for any damage to person or property caused by any pets brought or kept upon the property by an owner, his or her family members, guests, licensees, or invitees.

Section 11.7. EXTERIOR INSTALLATIONS.

No outside pole or antennae shall be erected or maintained without first obtaining the approval of the Executive Board. No air conditioning or other machine shall be installed on the exterior of any Improvement on the Property or be allowed to protrude through the walls or roof of any improvement on the Property without the prior written approval of the Executive Board. No basketball standards or other athletic fixtures shall be attached to any residence or Improvement on the Property without the prior written approval of the Executive Board.

Section 11.8. BUSINESS ACTIVITY.

No business or commercial activity shall be maintained or conducted in any residence, except that: (1) Declarant, or a person designated by the Association as agent of the Association for purposes of managing the property, may maintain management offices and facilities in a residence; (2) Unit Owners may engage in home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, trash, or storage, provided that there exists no external evidence thereof; or (3) Further, non-residential activities must comply with governmental regulations addressing Home Occupations, no signs may indicate in any way that a non-residential activity is being conducted, and no increase in street traffic, substantial or insubstantial, is permissible. Notwithstanding the forgoing, the use of a Lot for a bed and breakfast or as a child care facility, of any size, is not permissible. No outhouse of any kind, tent, shed or trailer, or any other temporary dwelling, shall be erected or maintained on any Lot or be used for living purposes, nor shall any garage be used for dwelling purposes.

Section 11.9. TIME SHARING PLAN.

Conveyance of a Unit pursuant to a time-sharing plan is prohibited.

Section 11.10. UNIT LEASING.

Any Unit Owner may lease his or her Unit to a third party, but such a lease arrangement must be in writing, must be for a term of more than sixty (60) days, must comply with the terms of the Documents, must not be for transient or hotel purposes, must provide that the failure to comply in all respects with the Documents shall be a default under the terms of the lease, and must be approved by the Executive Board. Any Unit Owner who wishes to lease his or her Unit to a third party must submit a copy of the lease to the Executive Board. The Executive Board's approval of any Unit Owner's lease may not be unreasonably withheld; however, the Executive Board may, without limitation, disapprove leases which may effect any Unit's eligibility for any type of AHFC, FHA, HUD, FNMA, FHLMC, or VA financing.

Section 11.11. ARCHITECTURAL CONTROL STANDARDS; OCCUPANCY RESTRICTIONS.

All Units in the Common Interest Community are also subject to Architectural Controls, attached as Exhibit E, and Occupancy Restrictions, attached as Exhibit F, to this Declaration. Where the Architectural Controls or Occupancy Restrictions conflict with the Declaration, the more restrictive standards shall apply. At the time Declarant adds additional Units to the Common Interest Community, Declarant may amend the Architectural Controls and/or Occupancy Restrictions for said Units as permitted in Article 6, however, such amendment shall not be effective until approved in writing by Carr-Gottstein Properties, GP, LLC.

Section 11.12. HOLD HARMLESS AND INDEMNIFICATION.

As described in Section 9.5, Unit Owners will be liable to the Association for any damages to the Common Elements or to any equipment on the Common Elements caused negligently or intentionally by themselves, their families, their occupants, their guests, or their invitees. By the acceptance of his or her deed, each Unit Owner further agrees to indemnify each and every other Unit Owner, and to hold each and every other Unit Owner harmless from any claim of any Person for personal injuries or property damage occurring within the residence of the Unit Owner, unless said injury or damage occurs by reason of the negligence or intent of any other Unit Owner, and each Unit Owner further agrees to defend, at his or her expense, any and all remaining Unit Owners who may be sued by any Person for a claim for personal injury or property damage alleged to have been sustained within the Unit of that Unit Owner. Unit Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Alaska and all ordinances of the Municipality of Anchorage. Unit Owners shall hold harmless the Association and other Unit Owners from all fines, penalties, costs, and

prosecutions for their violations, noncompliance, and/or their use of the property.

ARTICLE 12.

EASEMENTS, COVENANTS, AND LICENSES

Section 12.1. GENERAL.

Easements, covenants, and/or licenses to which the Common Interest Community is presently subject are recited in Exhibit D to this Declaration and/or are shown on the Plans attached hereto. Declarant may subject the Common Interest Community to additional easements pursuant to Article 6.

Section 12.2. UNIT OWNERS' EASEMENTS.

Declarant expressly reserves, for the benefit of the Unit Owners and the Association, reciprocal easements of access, ingress, and egress over all of the Common Elements. Such easements may be used by Declarant's successors, purchasers, and all Unit Owners, their guests, tenants, and invitees, residing or temporarily visiting the Common Interest Community, for pedestrian walkways and such other purposes reasonably necessary for the use and enjoyment of a Unit and the Association. Such easements shall be appurtenant to, and shall pass and run with, the title to every Unit conveyed. If Declarant also assigns any Limited Common Elements to any Unit, Declarant expressly reserves, for the benefit of each Unit to which such Limited Common Elements are assigned, an exclusive easement for the use of such Limited Common Elements. If any Limited Common Element is assigned to more than one (1) Unit, but less than all Units, the exclusive easement to such Limited Common Element shall be held jointly by the Units to which it is assigned.

Section 12.3. LIMITATIONS ON UNIT OWNERS' EASEMENTS.

In the event any Common Element encroaches upon any Unit, or any Unit or Improvement, at no fault of the Unit Owner, encroaches upon any Common Element, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Common Interest Community, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

The Association may, subject to other provisions of this Declaration and the Act, pledge, mortgage, assign, grant, or hypothecate a Security Interest in the Common Elements. The Unit Owners' easements are further limited by the right of the Association to charge fees for a Unit Owner's use of the Common Elements if such use is substantially different from the use offered to other Unit Owners and involves additional expense to the

Association. The Unit Owners' easements are also limited by the Association's right to administer the Common Elements for the safety, health, and mutual benefit of the Unit Owners. Finally, the Unit Owners' easements are limited by the right of the Association to grant licenses to Persons for the use of Common Elements.

The Unit Owners' easements are limited by and subject to all other provisions of this Declaration and the Act.

ARTICLE 13.
MASTER ASSOCIATION

Section 13.1. AUTOMATIC MEMBERSHIP.

The Property is subject to the Declaration for Southport (a Master Planned Community). The Declaration for Southport (a Master Planned Community) confers automatic membership to the Hidden Cove Phase III Homeowners Association in the Southport Master Planned Community.

Section 13.2. MASTER ASSOCIATION EXECUTIVE BOARD.

The Hidden Cove Phase III Homeowners Association may designate one (1) representative to serve on the Executive Board of the Southport Master Association. This representative shall cast all of the Hidden Cove Phase III Homeowners Association's votes as directed by said Association's Executive Board.

Section 13.3. ALLOCATION OF INTEREST.

The Hidden Cove Phase III Homeowners Association shall have one (1) vote in the Southport Master Association for each Unit that is a member of the Hidden Cove Phase III Homeowners Association. Common Expense liability for each Unit shall be allocated to the Hidden Cove Phase III Homeowners Association pursuant to a formula whereby the total number of votes in the Southport Master Association equals one hundred percent (100%). Hidden Cove Phase III Homeowners Association shall be liable for the percentage of total Common Expenses for the Southport Master Association that equals the percentage of all votes in the Southport Master Association held by Hidden Cove Phase III Homeowners Association. By way of example, if there are a total of one hundred (100) votes in the Southport Master Association and the Hidden Cove Phase III Homeowners Association holds ten (10) votes, the Hidden Cove Phase III Homeowners Association will be liable for ten percent (10%) of the Common Expenses of the Southport Master Association.

Section 13.4. COMMON EXPENSE COLLECTION.

The Southport Master Association shall collect from the Hidden Cove Phase III Homeowners Association its percentage share of the Master Association's Common Expenses. The Hidden Cove Phase III Homeowners Association shall incorporate into its annual budget as a Common Expense its percentage share of the Master Association's Common Expenses.

ARTICLE 14.
ALLOCATION/REALLOCATION
OF LIMITED COMMON ELEMENTS

Common Elements conveyed by Declarant to Hidden Cove Phase III Homeowners Association which are not originally conveyed as a Limited Common Elements may subsequently be so allocated in accordance with the procedures outlined in Article 16 of this Declaration. Such allocations will be made by amendment to the Declaration. The amendment must specify to which Unit or Units the Limited Common Elements are assigned. No Limited Common Elements may be reallocated by amendment without consent of affected Unit Owners.

Such amendments shall require the approval and written endorsement of all holders of Security Interests in the affected Units. The Person executing the amendment shall provide an executed copy of the amendment to the Association. Provided that the amendment complies with the provisions of this Declaration and the Act, the Executive Board shall record it. The amendment shall contain words of conveyance and must be recorded and indexed in the names of the parties and the Common Interest Community.

The parties executing the amendment shall be responsible for the preparation of the amendment and shall reimburse the Association for its reasonable attorney's and consultant's fees in connection with any review of the amendment and for the recording costs.

ARTICLE 15.
IMPROVEMENTS AND ADDITIONS

Section 15.1. BOARD APPROVAL.

Excepting alterations or Improvements to the interior of Units, no replacement, addition, alteration, or removal of any building, structure, fence, drainage facility, common or limited-common area landscaping, or planting shall be effected on any Unit other than by Declarant until the plans, and specifications showing the location and nature of such replacement, addition, alteration, or removal have been submitted to, and approved in writing by, the Board; nor shall any exterior painting or decorative alteration be

commenced on any Unit other than by Declarant until the Board has approved the plans therefor, including, without limitation, the design, proposed color schemes, and the quality of the materials to be used.

All such plans and specifications shall be, if the Board so requires, prepared by an architect or landscape architect or licensed building designer, said architect and/or designer to be employed by the Unit Owner making application at his or her sole expense. Plans and any resubmittals required by the Board shall be approved or disapproved by the Board within forty-five (45) days of their submittal or resubmittal. Failure of the Board to respond to a submittal or resubmittal of plans within such period shall be deemed disapproval of the plans as submitted or resubmitted. If the Board grants approval, it shall be conclusively presumed that the location and height of any Improvement as approved does not violate the provisions of this Declaration.

During the period of Declarant control, any variance from the Architectural Controls set forth in Exhibit E, the Occupancy Restrictions set forth in Exhibit F, and the Design Guidelines as set forth in Exhibit G, shall not be effective, nor shall it be presumed effective, unless approved in advance in writing by Carr-Gottstein Properties, GP, LLC.

The approval of the plans and specifications may be withheld, not only because of noncompliance with any of the specific conditions, covenants, and restrictions contained in this Declaration, but also because of the Board's reasonable dissatisfaction with the location, elevation, color scheme, finish, design, proportions, conformity with any architectural control standards, shape, height style, appropriateness, or materials of any Improvement, alteration, or addition, or because of the Board's reasonable dissatisfaction with any or all other matters or things which, in the reasonable judgment of the Board, will render the proposed additions, alterations, and/or Improvements inharmonious or out of keeping with the Improvements erected on other Units or with the general plan of the Common Interest Community. If, after such plans and specifications have been approved, the Improvements are altered, erected, or maintained upon the Unit other than as approved by the Board, such alteration, erection, and maintenance shall be deemed to have been undertaken without the approval of the Board as required by this Declaration.

Section 15.2. PERMITS.

In addition to securing the Board's approval, a Unit Owner must also obtain any necessary governmental permits before construction commences on any Improvements, additions, or alterations. The cost of any such permits shall be paid by the Unit Owner.

Section 15.3. LIMITATIONS.

After the expiration of one (1) year from the date of completion of any Improvement, alteration, or addition, said Improvement, alteration, or addition shall, in favor of Purchasers and encumbrancers, in good faith and for value, be deemed to comply with all of the provisions hereof, unless: (1) a notice of such noncompliance or noncompletion, executed by one or more members of the Board, shall appear of record in the Office of the Recorder, Anchorage Recording District; or (2) legal proceedings in connection with such Improvement, alteration, or addition shall have been instituted to enforce compliance with this Article. If provisions of this Article conflict with provisions of the Architectural Controls, attached as Exhibit E to this Declaration, the provisions of Exhibit E control.

Section 15.4. NO WAIVER.

The approval of the Board or Carr-Gottstein Properties, GP, LLC, under this Article of any plans or specifications for additions, alterations, or Improvements to the Property shall not be construed in any way as a waiver by the Board of its right to object to any feature or aspect of such plans and specifications found in subsequent plans or specifications submitted for approval under this Article or found in any additions, alterations, or Improvements undertaken without first securing approval under this Article.

Section 15.5. NO LIABILITY.

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. Nor shall the Association, Executive Board or Carr-Gottstein Properties, GP, LLC, be liable for any condition of approval or any other matter connected with a Unit Owner's Improvement, addition, or alteration.

Section 15.6. DECLARANT RIGHTS.

The provisions of this Article do not apply to Declarant in the exercise of any Special Declarant Rights or Development Rights, except for the approval rights of Carr-Gottstein Properties, GP, LLC.

ARTICLE 16.
ALTERATION OF UNIT BOUNDARIES

Section 16.1. APPLICATION AND AMENDMENT

Subject to approval pursuant to Article 15 and/or Exhibit E of any necessary alterations, the acquisition of any required

governmental permits, and subject to any other Municipal requirements, the boundaries between adjoining Units may be reallocated by an amendment to the Declaration upon application to the Association by the Unit Owners affected by the reallocation. If the Unit Owners of the adjoining Units have specified a reallocation between their Units of their Allocated Interests, the application shall set forth the proposed reallocations. The application shall be approved or disapproved by the Executive Board within forty-five (45) days. Failure of the Board to respond within such period to the application shall be deemed disapproval of the application.

The Board's approval of the application 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 the Board's reasonable dissatisfaction with any or all matters or things which, in the Board's reasonable judgment will render the proposed subdivision inharmonious or out of keeping with the general plan of the Common Interest Community.

Section 16.2. VOTES.

Each Unit shall have only one (1) vote in the Association, notwithstanding any interest reallocation under this Article.

Section 16.3. AMENDMENT.

If the Board approves the application, the Association shall prepare an amendment that identifies the Units involved, states the reallocations of any interests in a revised Table of Allocated Interests, states the alteration(s) of Unit Boundaries, and states the Association's consent to the reallocation. The amendment must be executed by the affected Unit Owners and contain words of conveyance between them. If the amendment by any Person other than Declarant reallocates any interests in the Common Interest Community, the unanimous consent of the Unit Owners is necessary. The holders of any Security Interests in the affected Units shall endorse their approval on the amendment.

Section 16.4. RECORDATION.

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. The Association shall also 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 costs of preparation and recordation of the amendment, preparation and recordation of amended plats and plans, the reasonable consultant and/or attorney fees of the Association if the Executive Board deems it necessary

to retain the services of any consultant and/or attorney, and any other costs reasonably incurred by the Association in connection with any application under this Article.

ARTICLE 17.

AMENDMENTS

Section 17.1. GENERAL.

Except as otherwise provided by the Documents and the Act, including, without limitation, AS 34.08.740, AS 34.08.260, and Section 17.3, and Articles 14 and 19 herein, this Declaration and its 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 17.2. CONSENT OF SECURITY INTEREST HOLDERS.

As required by Articles 14 and 19, amendments may be subject to the consent of certain holders of Security Interests.

Section 17.3. UNANIMOUS CONSENT.

Except to the extent expressly permitted or required by other provisions of the Act and this Declaration, no amendment may change the uses to which any Unit is restricted, increase the number of Units, create or increase Special Declarant Rights, alter the boundaries of any Unit, or change the Allocated Interests of any Unit, in the absence of unanimous consent of the Unit Owners.

Section 17.4. DECLARANT RIGHTS.

Provisions in this Declaration reserving Declarant rights may not be amended without the consent of Declarant and as set forth in Section 17.9.

If, in Declarant's exercise of any rights described in Article 6 of this Declaration, an amendment to the Declaration is required, the Declarant shall, in conformance with the Act, prepare, execute, and record an amendment, any required Plans, and any other required exhibits. Any amendment effected by Declarant's exercise of rights reserved in Article 6 requires Declarant approval only.

Section 17.5. EXECUTION.

Amendments to this Declaration required by the Act to be recorded by the Association, which have 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.