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DECLARATION

OF

VILLA CANDALARIA
CONDOMINIUMS

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DECLARATION

VILLA CANDALARIA CONDOMINIUM

Key Properties of Alaska Inc. an Alaska corporation with an office at 525 W Third Avenue, Suite 203 Anchorage, Alaska 99503, does hereby submit the real property in the Municipality of Anchorage, Alaska described in Schedule A-1, to the provisions of the Uniform Common Interest Ownership Act, Title 34, Chapter 8, of the Alaska Statutes, for the purpose of creating Villa Candalaria and making the improvements shown in the Plat and Plans attached as Schedules A-3 and A-4.

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 of the Alaska Statutes as it may be amended from time to time.

Section 1.2 - Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability, and votes in the Association, allocated to Units in the Common Interest Community. The Allocated Interests are described in Article VIII of this Declaration and shown on Schedule A-2.

Section 1.3 - Association. Villa Candalaria Condominium Owners Association, Inc. a non-profit corporation organized under Chapter 20 the statutes of the State of Alaska. It is the Association of Unit Owners pursuant to A.S. 34.08.310.

Section 1.4 - Bylaws. The Bylaws of the Association, as they may be amended from time to time.

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

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

- (a) Expenses of administration, maintenance, repair or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act;
- (c) Expenses agreed upon as Common Expenses by the Association;

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(d) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by Association.

Section 1.7 - Common Interest Community. The real property described in Schedule A-1, subject to the Declaration of Villa Candalaria Condominium.

Section 1.8 - Declarant. Key Properties of Alaska, Inc., an Alaska corporation or its successor as defined in A.S. 34.08.990 (12).

Section 1.9 - Director. The Declaration, Plat and Plans recorded and filed pursuant to the provisions of the Act, the Bylaws, and the Rules as they be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

Section 1.10 - 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 XVII.

Section 1.11 - 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 XVII.

Section 1.12 - Executive Board. The board of directors of the Association.

Section 1.13 - Floor Plans. Those floor plans filed with this Declaration as Schedule A-4, as they may be from time to time amended.

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

Section 1.15 - Limited Common Elements. The portion of the Common Elements allocated for the exclusive use of one or more but fewer than all of the units by the Declaration or by operation of Subsections (2) and (4) of Section 34.08.100. The Limited Common Elements in the Common Interest Community are described in Article V of this Declaration.

Section 1.16 - Majority or Majority of Unit Owners. The owners of more than 50% of the votes in the Association.

Section 1.17 - Manager. A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

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Section 1.18 - Notice and Comment. 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 thereon. The procedures for Notice and Comment are set forth in Section 23.1 of this Declaration.

Section 1.19 - 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 23.2 of this Declaration.

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 - Plans. The plans filed simultaneously with this Declaration, a copy of which is attached as Schedule A-3, as they may be amended from time to time.

Section 1.22 - Plat. The plat filed simultaneously with this Declaration, a copy of which is attached as Schedule A-4, as it may be amended from time to time.

Section 1.23 - Property. The land, all improvements, easements, rights and appurtenances, which have been submitted to the provisions of the Act by this Declaration.

Section 1.24 - Public Offering Statement. The current document prepared pursuant to A.S. 34.09.530 as it may be amended from time to time, and provided to purchasers prior to the time of execution of a purchase agreement.

Section 1.25 - Rules. 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 1.26 - Security Interest. An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.27 - Special Declarant Rights. Right reserved for the benefit of a Declarant to (A) complete improvements indicated on plats and plans filed with the Declaration; (B) exercise any Development right; (C) maintain sales offices, management offices, signs advertising the Common Interest Community, and models; (D) use easements through the Common Elements for the purpose of making improvements within the Common Interest Community; or (E) appoint or remove an officer of the Association or any Executive Board member during any period of Declarant control.

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Section 1.28 - Trustee. The entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive board from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

Section 1.29 - Unit. A physical portion of the Common Interest Community designated for separate ownership or occupancy, the boundaries of which are described in Section 4.2 of this Declaration.

Section 1.30 - Unit Owner. The Declarant or other Person who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the initial owner of any Unit created by this Declaration.

ARTICLE II

Name and Type of Common Interest Community and Association

Section 2.1 - Common Interest Community. The name of the Common Interest Community is Villa Candalaria Condominium. Villa Candalaria Condominium is a condominium.

Section 2.2 - Association. The name of the Association is the Villa Candalaria Condominium Owners Association, Inc.

ARTICLE III

Description of Land

The entire Common Interest Community is situated in the Anchorage Recording District, Third Judicial District, State of Alaska and is located on land described in Schedule A-1.

ARTICLE IV

Maximum Number of Units: Boundaries

Section 4.1 - Maximum Number of Units. The Common Interest Community upon creation contains Eleven (11) Units. Each building contains the number of units listed in the most current Schedule A-2.

Section 4.2 - Boundaries. Boundaries of each Unit created by the Declaration are shown on the Plat and Plans as numbered Units with their identifying number and are described as follows:

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(a) **Upper Boundary:** The horizontal or sloping plane or planes of the unfinished lower surfaces of the ceiling bearing structure surfaces, beams, and rafters and of closed fireplace dampers, extended to an intersection with the vertical perimeter boundaries.

(b) **Lower Boundary:** The horizontal plane or planes of the undecorated or unfinished upper surfaces of the floors, extended to an intersection with the vertical perimeter boundaries and open horizontal unfinished surfaces of trim, sills, and structural components.

(c) **Vertical Perimeter Boundaries:** The planes defined by the inner surfaces of the studs and framing of the perimeter walls; the unfinished inner surfaces of poured concrete walls; the unfinished surfaces of the interior trim, fireplaces, and thresholds along perimeter walls and floors; the unfinished exterior surfaces of closed windows and closed perimeter doors; and the innermost unfinished planes of all interior bearing studs and framing of bearing walls, columns, bearing partitions, and partition walls between separate Units.

(d) **Inclusions:** Each Unit will include the spaces and Improvements lying within the boundaries described in Sections 4.2 (a), 4.2 (b), and 4.2 (c) above, and will also include the spaces and the Improvements within such spaces containing any space, heating, water heating, and air conditioning apparatus smoke detector systems and all electrical switches, wiring, pipes, ducts, conduits, smoke detector system and television, telephone, and electrical receptacles and light fixtures and boxes serving that Unit exclusively, the surface of the foregoing being the boundaries of such Unit, whether or not such spaces are contiguous.

(e) **Exclusions:** Except when specifically included by other provisions of Section 4.2, the following are excluded from each Unit: The spaces and Improvements lying outside of the boundaries described in Sections 4.2 (a), 4.2 (b), and 4.2 (c) above; and all chutes, pipes, flues, ducts, wires, conduits, skylights and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and similar services to other Units and Common Elements or both.

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

ARTICLE V

Limited Common Elements

The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

(a) If a chute, flue, pipe, duct, wire, conduit, bearing wall, or other fixture lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element, allocated solely to the Unit, the use of which is limited to that Unit, and any portion thereof serving more than one Unit or a portion of the Common Elements is a part of the Common Elements.

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(b) Any shutters, awnings, window boxes, doorsteps, stoops, porches, decks, balconies, patios and each exterior door and window or other fixture designed to serve a single Unit that is located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit and their use is limited to that Unit.

(c) Stoops, steps, hallways, and walls above door openings at the entrances to each building, which provide access to less than all Units, the use of which is limited to the Units to which they provide access.

(d) Stairways, the use of which is limited to certain Units as shown on the plans.

(e) Storm windows and storm doors, if any, will be Limited Common Elements of the Unit to which they service.

(f) Driveways and garages as designated on plat.

ARTICLE VI

Maintenance, Repair and Replacement

Section 6.1 - Common Elements. The Association shall maintain, repair and replace all of the Common Elements, except the portions of the Limited Common Elements which are required by this Declaration to be maintained, repaired or replaced by the Unit Owners.

Section 6.2 - Units. Each Unit Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Unit, except the portions thereof to be maintained, repaired or replaced by the Association.

Each Unit Owner shall be responsible for removing all snow, leaves and debris from the balcony which is a Limited Common Element appurtenant to his or her Unit.

Each Unit Owner shall be responsible for the cleaning of their fireplace flues.

The Unit Owners served by a common entry hall are jointly responsible for cleaning the flooring and walls of the entry hall and for replacing light bulbs in the entry fixtures in the common entry hall appurtenant to their Unit.

Section 6.3 - 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, and for the purpose of reading, repairing, replacing utility meters and related pipes, valves, wires and equipment, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of 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.

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Section 6.4 - Repairs Resulting From Negligence. Each Unit Owner will reimburse the Association for any damages to any other Unit or to the Common Elements caused intentionally, negligently or by his or her failure to properly maintain, repair or make replacements to his or her Unit. 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. If such expense is caused by misconduct, it will be assessed following Notice and Hearing.

ARTICLE VII

Special Declarant Rights

Section 7.1 - Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

- (a) To complete Improvements indicated on Plats and Plans filed with the Declaration;
- (b) To maintain sales offices, management offices, signs advertising the Common Interest Community, and models;
- (c) To use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community;
- (d) To appoint or remove an officer of the Association or an Executive Board member during a period of Declarant control subject to the provisions of Section 7.6 of this Declaration.

Section 7.2 - Models, Sales Offices and Management Offices. As long as the Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit or sales office or management office.

Section 7.3 - Construction; Declarant's Easement. The Declarant reserves the right to perform warranty work, and repairs and construction work, and to store materials in secure areas, in Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of or exercising Special Declarant Rights, whether arising under the Act or reserved in the Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, municipalities, the State, riparian owners or upland owners to fulfill the plan of development.

Section 7.4 - Signs and Marketing. The 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 as will not unreasonably disturb the rights of Unit Owners.

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Section 7.5 - Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove from the property, promptly after the sale of the last Unit, any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

Section 7.6 - Declarant Control of the Association.

(a) Subject to Subsection 7.6 (b) There shall be a period of Declarant control of the Association, during which a Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Executive Board. The period of Declarant control terminates no later than the earlier of:

- (i) 60 days after conveyance of 75 percent of the Units that may be created to Unit Owners other than a Declarant;
- (ii) two years after all Declarants have ceased to offer Units for sale in the ordinary course of business;
- (iii) three years after the first Unit is conveyed to a Unit Owner other than a Declarant.

A 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 approved by the Declarant before they become effective.

(b) Not later than 60 days after conveyance of 25 percent of the Units that may be created to Unit Owners other than a Declarant, at least one member and not less than 25 percent of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than 60 days after conveyance of 50 percent of the units that may be created to unit owners other than a Declarant, not less than 33 1/3 percent 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 members, at least a majority of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers take office upon election.

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

Section 7.7 - Declarant's Duties Upon Relinquishment of Control of the Common Interest Community.

(a) Before or not more than 60 days after the termination of declarant control, the declarant shall relinquish control of the common interest community and the unit owners shall accept control. At the same time, the declarant shall deliver to the common interest community all property of the unit owners and of the common interest community held or controlled by the declarant as fully provided by A.S. 34.08.340.

(b) Special declarant rights created or reserved under A.S. 34.08 *et. seq.* may be transferred only by an instrument evidencing the transfer that has been recorded in each recording district in which any portion of the common interest community is located. The transfer instrument is ineffective unless executed by the transferor.

(c) Upon transfer of any special declarant right created or reserved under A.S. 34.08 *et. seq.* the liability of the transferring declarant is fully provided under A.S. 34.08.350(b)-(i).

Section 7.8 - Limitations on Special Declarant Rights. Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the earlier of the following:

(a) so long as the Declarant is obligated under any warranty or obligation, owns any Unit; or

(b) any Security Interest in any Units; or for seven (7) years after recording this Declaration, whichever is earliest. Earlier termination of certain rights may occur by statute.

Section 7.9 - Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

ARTICLE VIII

Allocated Interest

Section 8.1 - Allocation of Interest. The table showing Unit numbers and their allocated interests is attached as Schedule A-2. These interests have been allocated in accordance with the formulas set out in this Article VIII.

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

(a) Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all of the Units in the Common Interest Community.

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(b) **Liability for the Common Expenses.** The percentage of liability for Common Expenses allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all of the Units in the Common Interest Community. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article XVIII of this Declaration.

(c) **Votes.** Each Unit in the Common Interest Community shall have one equal Vote. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Documents, means the specified percentage, portion, or fraction of all of the votes as allocated in Schedule A-2.

ARTICLE IX

Restrictions on Use, Alienation and Occupancy

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

(a) Each Unit is restricted to residential use as a single-family residence including home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, trash or storage. No sign indicating commercial or professional uses may be displayed outside a Unit. A single-family residence is defined as a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants, and cooking and eating with a common kitchen and dining area as designated on the plans of file with the building official of the Municipality of Anchorage.

(b) Garages are restricted to use by the Unit to which such Garage is a Limited Common Element, as storage and as a parking space for vehicles.

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

Section 9.2 - Restrictions on Alienation. A Unit may not be conveyed pursuant to a time-sharing plan.

A Unit may not be leased or rented for a term of less than sixty (60) days. All leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association.

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ARTICLE X

Easements and Licenses

All easements or licenses to which the Common Interest Community is presently subject are recited in Schedule A-1 to this Declaration. In addition, the common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to its power under Article VII of this Declaration.

ARTICLE XI

Allocation and Reallocation of Limited Common Elements

A Common Element not previously allocated as a Limited Common Element may be so allocated only pursuant to provisions in Article 24-2 of the Declaration. The allocations will be made by amendments to the Declaration, specifying to which Unit or Units the Limited Common Element is located.

All amendments shall specify to which Unit or Units the Limited Common Element is allocated.

No Limited Common Element depicted on the Plat or Plans may be reallocated by an amendment to this Declaration pursuant to this Article XI or as part of a relocation of boundaries of Units pursuant to Article XIII of this Declaration.

Such amendment shall require the approval of all holders of Security Interests in the affected Units, which approval shall be endorsed thereon. The person executing the amendment shall provide an executed copy thereof to the Association which, if the amendment complies with the provisions of this Declaration and the Act, 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 attorneys' fees in connection with the review of the amendment and for the recording costs.

ARTICLE XII

Additions, Alterations and Improvements

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

(a) No Unit Owner will make any structural addition, structural alteration, or structural improvement in or to the Common Interest Community without the prior written consent thereto of the Executive board in accordance with Subsection 12.1 (c).

(b) Subject to Subsection 12.1 (a), a Unit Owner:

(i) May make any other improvements or alterations to the interior of his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Common Interest Community;

(ii) 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;

(iii) After acquiring an adjoining Unit or an adjoining part of an adjoining Unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Common Interest Community. Removal of partitions or creation of apertures under this subsection is not an alteration of boundaries.

(c) A Unit Owner may submit a written request to the Executive Board for approval to do anything that he or she is forbidden to do under Subsection 12.1 (a) or 12.1 (b) (ii). The Executive Board shall answer any written request for such approval, after Notice and Hearing, within sixty (60) days after the request thereof. Failure to do so within such time shall not constitute a consent by the Executive Board to the proposed action. The Executive Board shall review requests in accordance with the provisions of its rules.

(d) Any applications to any department or to any governmental authority for a permit to make any addition, alteration or improvement in or to any Unit shall be executed by the Association only. Such execution will not, however, create any liability on the part of the Association or any of its members to any contractor, sub-contractor or materialman on account of such addition, alteration or improvement or to any person having any claims for injury to person or damage to property arising therefrom.

(e) 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.

The provisions of this Section shall not apply to the Declarant in the exercise of any Special Declarant Right.

Section 12.2 - Additions, Alterations and Improvements by Executive Board. Subject to the limitations of Sections 18.5 and 19.6 of this Declaration, the Executive Board may make any additions, alterations or improvements to the Common Elements which, in its judgment, it deems necessary.

Section 12.3 - Subdivision of Units. There is no procedure for subdivision of any apartment, and subdivision of an apartment or apartments is prohibited.

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ARTICLE XIII

Relocation of Boundaries Between Adjoining Units

Section 13.1 - Relocation of Boundaries Between Adjoining Units. Relocation of Boundaries between adjoining Units is prohibited.

ARTICLE XIV

Amendments to Declaration

Section 14.1 - General. Except in cases of amendments that may be executed by the Association under Article XI of this Declaration and A.S. 34.08.740, or by certain Unit Owners under Article XI and Section 13.1 of this Declaration and A.S. 34.08.260 or as provided by A.S. 34.08.255, and except as limited by Section 14.4 and Article XVII of this Declaration, this Declaration, including the Plat and Plans, may be amended only by vote or agreement of Unit Owners of Units to which at least sixty seven percent (67%) of the votes in the Association are allocated.

Section 14.2 - Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one year after the amendment is recorded.

Section 14.3 - Recordation of Amendments. Each amendment to the Declaration must be recorded in each recording district in which a portion of the Common Interest Community is located and the amendment is effective only upon recording. An amendment of this Declaration must be indexed in the grantee's index in the name of the Common Interest Community and the Association and in the grantor's index in the name of the parties executing the amendment.

Section 14.4 - When Unanimous Consent Required. Except to the extent expressly permitted or required by other provisions of the Act and this Declaration, an amendment may not create or increase Special Declarant Rights, increase 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 consent of the Unit Owners.

Section 14.5 - Execution of Amendments. An amendment to the 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.

Section 14.6 - Special Declarant Rights. Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

Section 14.7 - Consent of Holders of Security Interests. Amendments are subject to the consent requirements of Article XVII.

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ARTICLE XV

Adoption and Amendments to Bylaws

Pursuant to A.S. 34.07.020 (11) it is required that Bylaws be adopted for purposes of administration of the property or for other purposes not inconsistent with A.S. 34.07 *et seq.*

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

ARTICLE XVI

Termination

Termination of the Common Interest Community may be accomplished only in accordance with A.S. 34.08.260.

ARTICLE XVII

Mortgagee Protection

Section 17.1 - 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 17.2 - 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 17.3 - 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 exceeding \$10,000 which affects a portion of the Common Interest Community or any Unit in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable;

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

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

(d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 17.4; and

(e) Any judgment rendered against the Association.

Section 17.4 - Consent Required.

(a) Document Changes. Notwithstanding any lower requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents by the Association or Unit Owners described in this Subsection 17.4 (a) may be effective without the vote of at least sixty-seven percent (67%) of the Unit Owners (or any greater Unit Owner vote required in this Declaration or the Act) and until approved in writing by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration). Material includes, but is not limited to, any provision affecting:

(i) Assessments, assessment liens or subordination of assessment liens;

(ii) Voting rights;

(iii) Reserves for maintenance, repair and replacement of Common Elements;

(iv) Responsibility for maintenance and repairs;

(v) Reallocation of interests in the Common Elements or Limited Common Elements, including any change in the pro rata interest or obligations of any Unit Owner for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those - Unit Owners and only the Eligible Mortgagees holding Security Interests in such Units must approve such action;

(vi) Rights to use Common Elements and Limited Common Elements;

(vii) Boundaries of Units except that when boundaries of only adjoining Units are involved, or a Unit is being subdivided, then only those Unit Owners and the Eligible Mortgagees holding Security Interests in such Unit or Units must approve such action;

(viii) Convertibility of Units into Common Elements or Common Elements into Units;

(ix) Abandonment, partition, subdivision, expansion or contraction of the Common Interest Community, or the addition, annexation, partition, subdivision or withdrawal of property to or from the Common Interest Community;

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(x) Insurance or fidelity bonds, including the use of hazard insurance proceeds for losses to any property in the Common Interest Community for other than the repair, replacement or reconstruction of such property except as provided by AS 34.08.440 (b);

(xi) Leasing of Units;

(xii) Imposition of restrictions on a Unit Owner's right to sell or transfer his or her Unit;

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

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

(xv) Termination of the Common Interest Community for reasons other than the substantial destruction or condemnation, as to which a sixty-seven percent (67%) Eligible Mortgagee approval is required; 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 other than rights reserved to the Declaration as special Declaration rights without the approval of at least 51% of the Eligible Mortgagees:

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

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

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

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

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

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

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

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

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

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

(d) The failure of an Eligible Mortgagee to respond within thirty (30) days to any written request of the Association for approval of a non-material addition or amendment to the Documents shall constitute an implied approval of the addition or amendment.

Section 17.5 - Inspection of Books. The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the books and records of the Association during normal business hours.

Section 17.6 - 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 if any Eligible Mortgagee or Eligible Insurer requests it, in which case the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

Section 17.7 - 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 17.8 - Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend any meeting which a Unit Owner may attend.

Section 17.9 - Appointment of Trustees. In the event of damage or destruction under Article XXI or XXII or condemnation of all or a portion of the community, any Eligible Mortgagee may require that such proceeds be payable to a Trustee established pursuant to Section 1.30. Such Trustee may be required to be a corporate trustee licensed by the State of Alaska. Proceeds will thereafter be distributed pursuant to Article XXII 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.

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ARTICLE XVIII

Assessment and Collection of Common Expenses

Section 18.1 - Apportionment of Common Expenses. Except as provided in Section 18.2, all Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Expenses as shown on Schedule A-2 to this Declaration.

Section 18.2 - 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 of the Unit shall be assessed against that Unit.

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

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

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

Section 18.3 - Lien.

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

(b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) a lien and encumbrances recorded before the recordation of the 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 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 assessments based on the periodic budget adopted by the Association pursuant to Section 18.5 of this Article which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce either the Association's lien or a Security Interest described in Subdivision (2) of this Subsection. This Subsection does not

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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 provision of AS 09.38.010.

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

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

(e) This Section does not prohibit an action to recover sums for which Subsection 18.3(a) creates a lien or prohibit an Association from taking a deed in lieu of foreclosure.

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

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

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

(i) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from that Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense assessments based on a periodic budget adopted by the Association pursuant to Section 18.5 of this Declaration.

(j) If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection 19.4 (b). Any unpaid assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Unit Owners, including the purchaser.

(k) In the case of foreclosure under AS 34.20.070 the Association shall give reasonable notice of its action to each lien holder of a Unit whose interest would be affected.

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

Section 18.4 - Budget Adoption and Ratification. Within 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 14 nor more than 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 18.5 - Ratification of Non-budgeted Common Expense Assessments. If the Executive Board votes to levy a Common Expense assessment not included in the current budget, other than one enumerated in Section 18.2 of this Declaration, in an amount greater than fifteen (15%) percent of the current annual operating budget, the Executive Board shall submit such Common Expense to the Unit Owners for ratification in the same manner as a budget under Section 18.5.

Section 18.6 - 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 the Unit. The statement must be furnished within 10 business days after receipt of the request and is binding on the Association, the Executive Board and each Unit Owner.

Section 18.7 - Monthly Payment of Common Expenses. All Common Expenses assessed under Sections 18.1 and 18.2 shall be due and payable monthly. The Association, through the Executive Board, shall set policies for due and delinquency dates, and procedures for enforcement including late fees and interest charges.

Section 18.8 - 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.

Section 18.9 - Commencement of Common Expense Assessments. Common Expense assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs.

Section 18.10 - Surplus Funds. Unless otherwise provided in the Declaration, surplus funds of the Association remaining after payment of or provision for common expenses and prepayment of reserves must be paid to the unit owners in proportion to common expense liabilities or credited to them to reduce future common expense assessments.

Section 18.11 - 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.

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Section 18.12 - 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.

ARTICLE XIX

Right to Assign Future Income

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

ARTICLE XX

Persons and Units Subject to Documents

Section 20.1 - Compliance with Documents. All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by such Unit Owner, tenant, mortgagee or occupant, and all such provisions recorded on the Land Records of the Anchorage Recording District of the Third Judicial District are covenants running with the land and shall bind any Persons having at any time any interest or estate in such Unit.

Section 20.2 - Adoption of Rules. The Executive Board may adopt Rules regarding the use and occupancy of Units, Common Elements, and Limited Common Elements and the activities of occupants, subject to Notice and Comment.

ARTICLE XXI

Insurance

Section 21.1 - 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.

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Section 21.2 - Property Insurance.

(a) Property insurance covering:

(i) The project facilities (which term means all buildings on the Property, including the Units and all fixtures, equipment and any improvements and betterments whether part of a Unit or a Common Element, and such personal property of Unit Owners as is normally insured under building coverage), but excluding land, excavations, portions of foundations below the undersurfaces of the lowest basement floors, underground pilings, pier, pipes, flues and drains and other items normally excluded from property policies; and

(ii) All personal property owned by the Association.

(b) Amounts. The project facilities for an amount (after application of any deductions) equal to one hundred percent (100%) of their actual cash value at the time the insurance is purchased and at each renewal date. Personal property owned by the Association for an amount equal to its actual cash value.

The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing said replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a Common Expense.

The maximum deductible for insurance policies shall be \$10,000.00 or one percent (1%) of the policy face amount.

The responsibility for payment of the deductible amount in the case of an insured loss shall be a Common Expense.

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

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

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

(ii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will void the policy or be a condition of recovery under the policy.

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

(iv) Loss must be adjusted with the Association.

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

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

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

"Villa Candalaria Condominium Owners Association for the use and benefit of the individual Owners".

(e) Effective Date. Property insurance shall be in full force and effect no later than the first conveyance of a unit to a person other than the declarant as provided by A.S. 34.08.440.

Section 21.3 - Liability Insurance. Liability insurance, including medical payments insurance, in an amount determined by the Executive Board but in no event less than One Million Dollars (\$1,000,000), covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements, and the activities of the Association.

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

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

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

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

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

(v) The insurer issuing the policy may not cancel or refuse to renew it until 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.

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Section 21.4 - Fidelity Bonds. A blanket fidelity bond shall be provided for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force, and in no event less than the sum of three months' assessments plus reserve funds. The bond shall include a provision that calls for ten (10) days' written notice to the Association, to each holder of a Security Interest in a Unit, to each servicer that services an AHFC- owned, FNMA-owned or FHLMC-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 21.5 - 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 21.6 - Workers' Compensation Insurance. The Executive Board shall obtain and maintain workers' Compensation Insurance to meet the requirements of the laws of the State of Alaska.

Section 21.7 - 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 21.8 - Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association or the Unit Owners.

Section 21.9 - Premiums. Insurance premiums shall be a Common Expense.

ARTICLE XXII

Damage To Or Destruction of Property

Section 22.1 - Duty to Restore. A portion of the Common Interest Community for which insurance is required under A.S. 34.08.440 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) 80% of the Unit Owners, including each owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.
- (d) If the required percentage of owners vote not to build or restore. Then Then this issue shall be resolved pursuant to A.S. 34.07.300 - 320.

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Section 22.2 - Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 22.3 - 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 22.4 - Replacement of Less Than Entire Property.

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

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

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

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

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

Section 22.5 - Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, then the Executive Board of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Subsection 22.1 (a) through Subsection 22.1 (c), the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Common Interest Community is terminated.

Section 22.6 - Certificates by the Executive Board. The Trustee, if any, may rely on the following certifications in writing made by the Executive Board:

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

(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.

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Section 22.7 - Certificates by Attorneys. 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 or attorney's title certificate of title or a title insurance policy based on a search of the Land Records of the Anchorage Recording District of the Third Judicial District from the date of the recording of the original Declaration stating the names of the Unit Owners and the mortgagees.

ARTICLE XXIII

Rights To Notice And Comment: Notice And Hearing

Section 23.1 - Right to Notice and Comment. Before the Executive Board amends the Bylaws or the Rules, whenever the Documents require that an action be taken after "Notice and Comment", and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in writing and shall be delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than 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 23.2 - Right to Notice and Hearing. Whenever the Documents require that an action be taken after "Notice and Hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

Section 23.3 - 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 XXIV

Executive Board

Section 24.1 - Minutes of Executive Board Meetings The Executive Board shall permit any Unit Owner to inspect the minutes of Executive Board meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after any such meeting.

Section 24.2 - Powers and Duties.

(a) 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:

- (i) Adopt and amend Bylaws, rules and regulations;
- (ii) Adopt and amend budgets for revenues, expenditures and reserves;
- (iii) Collect assessments for Common Expenses from Unit Owners;
- (iv) Hire and discharge managing agents;
- (v) Hire and discharge employees and agents, other than managing agents, and independent contractors.
- (vi) 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 or more Unit Owners on matters affecting the Common Interest Community;
- (vii) Make contracts and incur liabilities;
- (viii) Regulate the use, maintenance, repair, replacement and modification of the Common Elements.
- (ix) Cause additional improvements to be made as a part of the Common Elements;
- (x) Acquire, hold, encumber and convey in this 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 A.S. 34.08.430;
- (xi) Grant easements for any period of time including permanent easements, and leases, licenses and concessions for no more than one year, through or over the Common Elements;

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(xii) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements described in A.S. 34.08.100 (2) and (4), and for services provided to Unit Owners;

(xiii) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy a reasonable fine for violations of this Declaration, Bylaws, Rules and regulations of the Association;

(xiv) Impose a reasonable charge for the preparation and recordation of amendments to this Declaration, resale certificates required by A.S. 34.08.590 or a statement of unpaid assessments;

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

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

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

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

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

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

(xxi) Maintain financial records of significant detail to comply with A.S. 34.08.590.

(b) Within 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 owner, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all unit owners or any larger vote specified in the Declaration 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.

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Section 24.3 - Executive Board Limitations. The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

Section 24.4 - Control of the Executive Board.

(a) Not later than 60 days after conveyance of 25 percent of the units that may be created to unit owners other than a declarant, at least one member and not less than 25 percent of the members of the executive board must be elected by unit owners other than the declarant. Not later than 60 days after conveyance of 50 percent of the units that may be created to unit owners other than a declarant, not less than 33 1/3 percent of the members of the executive board must be elected by unit owners other than the declarant.

(b) Except as otherwise provided in A.S. 34.08.280(e), not later than the termination of any period of declarant control, the unit owners shall elect an executive board. The executive board consists of at least three members, except that if there are fewer than 12 units in the common interest community, the Declaration may provide for an executive board with one or two members. At least a majority of the members of the executive board must be unit owners. The executive board shall elect the officers. The executive board members and officers take office upon election.

(c) Notwithstanding any provision of the Declaration or Bylaws to the contrary, following notice under A.S. 34.08.390, the unit owners, by a two-thirds vote of all persons present and entitled to vote at a meeting of the unit owners at which a quorum is present, may remove a member of the executive board with or without cause, other than a member appointed by the declarant.

Section 24.5 - Applicability of A.S. 34.08 et. seq. to the Association as Non-profit Corporation. Whereas the Declaration provides that the power described in A.S. 34.08.320 is to be exercised by the board of directors at the Association, Villa Candalaria Condominiums Owners Association, Inc. (a non-profit corporation) each provision of A.S. 43.08 et. seq. applicable to the Association is applicable to the Association on a non-profit corporation, except as modified by A.S. 34.08.320.

ARTICLE XXV

Open Meetings

Section 25.1 - Access. All meetings of the Executive Board, at which action is to be taken by vote at such meeting will be open to the Unit Owners, except as hereafter provided.

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Section 25.2 - Notice. Notice of every such meeting will be given not less than three (3) days prior to the time set for such meeting, by setting regular meeting dates and by sending written notice by mail to the owners of record at an address provided by them, except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

Section 25.3 - Executive Sessions. Meetings of the Executive Board may be held in executive session, without giving notice and without the requirement that they be open to Unit Owners, in either of the following situations only:

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

The action taken at the executive session involves personnel, pending litigation, contract negotiations, or enforcement actions.

Section 25.4 - Meetings. A meeting of the Association must be held at least once a year. Special meetings may be called as allowed under A.S. 34.08.390.

ARTICLE XXVI

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 A.S. 34.08.740.

ARTICLE XXVII

Miscellaneous

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

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

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

Section 27.4 - Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect.

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Section 27.5 - 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 27.6 - Service of Process. Alaska Law Office, Inc., 921 West Sixth Avenue, Suite 200, Anchorage, Alaska 99501, pursuant to A.S. 34.07.020 (8) is authorized to receive Service of Process for the corporation.

Section 27.7 - Voting and Proxies. All matters requiring a vote by unit owners directly or through proxy shall be cast pursuant to A.S. 34.08.410.

Section 27.8 - Agreement to Amend or Modify. The owners, agents, successors, and assigns agree to ratify these Declarations and Bylaws to comply with any statutory or other regulatory requirements which may arise as a result of changes in the law or due to errors or omissions herein.

In Witness Whereof, the Declarant has caused this Declaration to be executed this

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

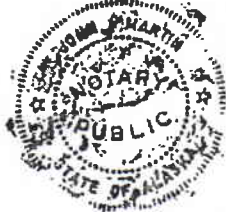
By: 

)
) SS.
)

THIS IS TO CERTIFY that on this Andrew F. Tiberson before me, the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared to me known and known to me to be the President of and known to me to be the person who signed the foregoing instrument, on behalf of said corporation, and he acknowledged to me that he 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.


Notary Public in and for Alaska
My Commission Expires: 8-6-98



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SCHEDULE A-1

DESCRIPTION OF LAND

Lot 5 (five) and lot 6 (six), Block 4, The Foothills Addition No. 2 according to the official plat thereof, filed under Plat No 77-295 records of the Anchorage Recording District, Third Judicial District, State of Alaska.

Excepting therefrom reservations and exceptions as contained in United States Patent and/or Acts of Congress authorizing the issuance thereof;

Excepting therefrom the easement for electrical transmission and/or telephone distribution line or system granted to Chugach Electrical Association Inc. recorded on July 25, 1952 in Deeds Book 76, page 127 in the Anchorage Recording District, Third Judicial District, State of Alaska;

Excepting therefrom the easement for electrical transmission and/or telephone distribution line or system granted to Chugach Electrical Association Inc. recorded on October 14, 1957 in Deed Book 3, Page 75, in the Anchorage Recording District, Third Judicial District, State of Alaska;

Excepting therefrom the easement for electrical transmission and/or telephone distribution line or system granted to Chugach Electrical Association Inc. Recorded on Mar 1, 1965 in Deed Book 100, Page 291, in the Anchorage Recording District, Third Judicial District, State of Alaska.

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TABLE OF INTERESTS
(Declaration Schedule A-2)

<u>Unit No.</u>	<u>Percentage Share of Common Elements</u>	<u>Percentage Share of Common Expenses</u>	<u>Vote in the Affairs of the Association</u>
8080-1	9.09		1
8080-2	9.09		1
8080-3	9.09		1
8070-1	9.09		1
8070-2	9.09		1
8070-3	9.09		1
8070-4	9.09		1
8070-5	9.09		1
8070-6	9.09		1
8070-7	9.09		1
8070-8	9.09		1

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<u>Unit No.</u>	<u>Garage and Driveway</u>	<u>Stairwells</u>
8080-1	80-1 + 80P1	80-1
8080-2	80-2 + 80P2	80-2 / 80-3
8080-3	80-3 + 80P3	80-2 / 80-3
8070-1	70-1 + 70P1	70-1 / 70-2
8070-2	70-2 + 70P2	70-1 / 70-2
8070-3	70-3 + 70P3	70-3 / 70-4
8070-4	70-4 + 70P4	70-3 / 70-4
8070-5	70-5 + 70P5	70-5 / 70-6
8070-6	70-6 + 70P6	70-5 / 70-6
8070-7	70-7 + 70P7	70-7 / 70-8
8070-8	70-8 + 70P8	70-7 / 70-8

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PLANS

(Declaration Schedule A-3)

Plot No. _____

Serial No. _____

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PLAT

(Declaration Schedule A-4)

Plat No. 9235

Serial No. _____

Return To
Key Properties of Alaska
525 West 3rd Suite #203
Anchorage, Alaska 99501
Anchorage Recording District

97-031705
138-00

ANCHORAGE REC.
DISTRICT

REQUESTED BY Key Prop. of AK.

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