

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

This Amended and Restated Declaration of Covenants, Conditions and Restrictions (Declaration) for Settler's Bay Subdivision ("Settler's Bay") is made by TRILLIUM CORPORATION, hereinafter referred to as Declarant.

W I T N E S S E T H :

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

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

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

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

ARTICLE I

DEFINITIONS

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

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

B. Association shall mean and refer to Settler's Bay Owner's Association, Inc. an Alaskan Amended and Restated Declaration of Covenants, Conditions and Restrictions

non-profit corporation, its successors and assigns, and it shall be a homeowners association.

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

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

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

F. Declarant shall mean TRILLIUM CORPORATION. Wherever the term Declarant is used in the Declaration, the Articles or By- Laws of the Association, it shall always be deemed to include Declarant's successors and assigns.

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

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

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

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

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

L. Lot shall mean any parcel of land, but excluding tracts, shown upon any recorded subdivision map or plat of the Properties. Owners of tracted land not a part of Exhibit A must petition the Association should such owners desire to become members of the Association.

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

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

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

P. Owner shall mean and refer to the owner as shown by the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities) of fee simple title to any Residential Unit or Lot located within the Properties. Owner shall not mean or refer to the holder of a deed of trust, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term Owner mean or refer to any lessee or tenant of an Owner. Owner shall also include one (1) or more persons or entities who are purchasing pursuant to an installment or land sales contract and who will not be entitled to receive fee simple title of record until they have performed the terms of said installment or land sale contract (hereafter referred to as "land sale contract" and/or "land sale contract purchaser").

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

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

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

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

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

V. Settler's Bay shall mean a subdivision in the Palmer Recording District, Third Judicial District, State of Alaska, according to the maps or plats thereof recorded as described in Exhibit Amended and Restated Declaration of Covenants, Conditions and Restrictions

“A”.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

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

ARTICLE III

ASSOCIATION

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

Section 2. Voting Rights.

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

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

B. When any property entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in Amended and Restated Declaration of Covenants, Conditions and Restrictions

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

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

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

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

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

ARTICLE IV

FUNCTIONS OF ASSOCIATION

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

functions:

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

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

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

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

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

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

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

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

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

J. The Association may carry out any of the functions and services specified in Section 1 of this Article to the extent such maintenance and services can be provided with the proceeds from annual assessments and, if necessary and appropriate, from special assessments. The functions and services allowed in Section 1 of this Article to be carried out or offered by the Association at any particular time shall be determined by the Board taking into consideration proceeds of assessments and the needs of the Association. Subject to the provisions of Article III, Section 4 hereof, the functions and services which the Association is authorized to carry out or provide, may be added to or reduced at any time upon the affirmative vote of a majority of the Board. The Association may provide the permitted services by contract with third parties, including agreements with applicable governmental agencies.

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

ARTICLE V

EASEMENTS

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

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

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

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

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

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

E. Any Owner may delegate, to the members of his family, his tenants or his contract purchasers in accordance with the By-Law of the Association, his right of enjoyment to the Common Areas and facilities. Such delegation is only permissible to the extent said delegatee resides on the property and only in accordance with the By-Laws of the Association. Owners Amended and Restated Declaration of Covenants, Conditions and Restrictions

shall be held liable for any damage in Common Areas and Association owned facilities caused by delegates.

ARTICLE VI
ASSESSMENTS

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

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

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

Section 4. Individual Assessments. The Association may impose an individual assessment upon any Owner whose use or treatment of Common Areas, Residential Unit or Lot is not in

conformance with the standards as adopted by the Association or which increases the maintenance cost to the Association above that which would result from compliance by the Owner with the use restrictions imposed by this Declaration.

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

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

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

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

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

Section 9. Allocation of Assessments. The total annual assessment and special assessment set by the Board for the Properties (exclusive of the individual assessments provided for in Section 4) shall be divided by the number of Lots, whether or not Units have been constructed thereon. The resulting figures shall be the assessment per Lot, provided that that figure applies to

all improved lots. Unimproved lots shall be assessed one-fifth (1/5) of that figure and multi-family lots shall be assessed one-half (1/2) of that figure for each Unit on the multi-family lot.

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

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

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

Section 12. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Property as defined in Article I hereof; (c) all property dedicated for recreational use by Declarant or the Association; (d) Property designated as Parks.

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

ARTICLE VII

ARCHITECTURAL CONTROL

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

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

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

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

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

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

D. As part of the application process, two (2) complete sets of plans and specifications prepared by an architect or other person found to be qualified by the ACC shall be submitted for approval by written application on such form as may be provided or required by the ACC. In the event the information submitted to the ACC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

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

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

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

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

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

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

K. The Association, Declarant, the ACC and any officer, employee, director or Member thereof shall not be liable for damages to any person submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications. Every person who submits plans and specifications for approval agrees, by submission of such plans and specifications, that it will not bring any action or suit against the Association, Declarant or ACC to recover any such damages.

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

ARTICLE VIII

RESTRICTIONS AND COVENANTS

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

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

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

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

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

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

E. Burial of Pipe and Tanks. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained on the Properties above the surface of the ground, except

hoses and movable pipes used for irrigation purposes. No property shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth; provided, however, that nothing contained herein shall prohibit or restrict removal of fill or earth materials to construct or create approved drainage structures or landscaped berms, provided there is approval from the ACC.

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

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

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

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

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

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

(1) on any Property, any artist, artisan, craftsman or other business person may pursue his endeavor so long as he also uses such private area for residential purposes, is self-employed and has no employees working in such private area and does not advertise or offer any product or work to the public upon or from such private area. Any such business person may not create any excessive noise or traffic congestion.

L. Maintenance of Parking Areas, Etc. All setback areas, yards, walkways, Driveways,

parking areas and drainage swales shall be maintained and kept in a neat and clean condition, free of refuse and debris.

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

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

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

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

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

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

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

BB. Size and Construction of Dwellings and, Garages.

Section 1. Lots One through Twenty-Six (1-26) in Block Seven (7), Block Sixteen (16) and Block Twenty-six (26) of Unit Two (2), Settler's Bay, shall contain a minimum of 1750 square feet of living area and shall have paved driveways and a two car garage either attached to or detached from the structure which is not considered part of the living area.

Each single family residence to be constructed in Block One (1), Block Two (2), Block Three (3) and Block Four (4) of Unit One

(1) shall contain a minimum of 1200 square feet of living area and shall contain a 1 car garage.

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

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

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

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

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

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

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

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

B. Hearing. The noncompliance shall be presented to the Board after which time

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

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

- (1) first noncompliance or violation: a fine not in excess of One Hundred and No/100 Dollars (\$100.00);
- (2) second noncompliance or violation: a fine not in excess of Five Hundred and No/100 Dollars (\$500.00);
- (3) third and subsequent noncompliance, or violation or violations that are of a continuing nature: a fine not in excess of Twenty-five and 00/100ths Dollars (\$25.00) for each day of continued violation or noncompliance.

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

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

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

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

ARTICLE IX

AMENDMENTS

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

ARTICLE X

DAMAGE, DESTRUCTION AND CONDEMNATION OF COMMON PROPERTY

Section 1. Casualty. If any portion of the Common Area is damaged or destroyed by fire

or other casualty, then:

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

ARTICLE XI

DAMAGE, DESTRUCTION AND

CONDEMNATION OF RESIDENTIAL UNITS

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

ARTICLE XII

SPECIAL PROVISIONS

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

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

Section 2: Commercial Vehicles.

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

B. Extra vehicles, inoperable or otherwise, that are not used at least monthly shall be kept in a garage or other structure suitable for such purpose. This includes storage of campers, boats, recreational vehicles, snow machines and trailers or any other vehicles or machinery. Proposals to store operational campers, motor homes and boats, only, alongside garages or other structures will be evaluated by the ACC on a case-by-case basis provided that such proposals contain, at a minimum, the construction of a suitable pad which shall either be paved or shall contain at least 4 inches of gravel fill. The purpose of this provision is to keep unsightly equipment, whether frequently used or unused, out of sight to the greatest extent possible.

Section 3. Noise Control.

A. Any motorized vehicles or mechanical equipment which create annoying or undesirable

noises or are operated in an unsafe manner shall not be operated within the subdivision.

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

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

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

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

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year period for an additional ten (10) year period; provided, however, that this Declaration may be terminated and released at any time upon the vote of, two-thirds (2/3) of the votes cast by Members at a duly held meeting of Members. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least sixty (60) days advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. The certificate shall be recorded in the Records of the Palmer Recording District, Third Judicial District, State of Alaska, along with a copy of the resolution itself, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendments by Members. After the Turnover date this Declaration may be

amended at a regular or special meeting of the Members by a vote of at least sixty-seven percent (67%) of the total voting power of the Members of the Association. Prior to the Turnover date any such amendment shall require the written approval of the Declarant as provided in Article III, Section 4, above.

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

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

Section 5. Enforcement. Enforcement of the covenants, conditions and restrictions contained in this Declaration shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors or assigns, or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and to enforce any lien created by this Declaration. Failure by the Association or any Owner to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 6. Severability. Should any covenant, condition or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 7. Interpretation. The Board shall have the right except as limited by any other provisions of this Declaration or the By-Laws to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and its good faith determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best tend toward furthering the interests of the Owners in creating and maintaining an attractive healthful, pleasant development.

Section 8. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board in the manner provided for in the By-Laws, unless the terms of this instrument provide otherwise.

Section 9. Termination of Declaration. Should the Members of the Association vote not to renew and extend this Declaration as provided for herein, all Common Property owned by the Association at such time shall be transferred to another association or appropriate public agency having similar purposes. If no other association or agency will accept such property then it will be conveyed to a trustee appointed by a Court of competent jurisdiction, which trustee shall sell the

Common Property free and clear of the limitations imposed hereby, upon terms established by such Court. That portion of the Open Space or Common Property consisting of the Surface Water Management System cannot be altered, changed or sold separate from the lands it serves. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Property, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of the Common Property. The excess of proceeds, if any, from Common Property shall be distributed among Owners in a proportion which is equal to the proportionate shares of such Owners in Common Expenses.

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

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

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

IN WITNESS WHEREOF, the Declarant has executed this Declaration this _____ day of _____, 2003.

Declarant: TRILLIUM CORPORATION, a Washington corporation

By _____
Its _____

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____ ,

_____ of TRILLIUM CORPORATION, a(n) Alaskan corporation, on behalf of the corporation.

Notary Public in and for Alaska

My commission expires: _____

F:\378\02\amended and restated declaration of covenants, conditions & restrictions6