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**WHEN RECORDED, MAIL TO:**

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
SUMMIT VIEW**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Summit View (the "Amendment") is made as of this 26 day of APRIL, 2004, by Summit View Homeowners Association, Inc., an Arizona non-profit corporation (the "Association").

**RECITALS:**

A. The Declaration of Covenants, Conditions and Restrictions for Summit View Homeowners Association, Inc. (the "Declaration") was recorded on July 2, 1996 at Document No. 96-0470579, and amended on September 20, 2001 at Document No. 2001-0866315, records of Maricopa County, Arizona subjecting the real property described in the Declaration to certain easements, restrictions, covenants and conditions.

B. Article XV, Section 3 of the Declaration, provides that the Declaration may be amended by an instrument signed by not less than sixty-seven (67) percent of the Owners.

C. The Board of Directors of the Association proposed to the members that the Declaration be amended. The amendment proposed by the Board of Directors was adopted and approved by not less than sixty-seven (67) percent of the Owners.

**NOW, THEREFORE,** the Declaration is amended as follows:

## ARTICLE I: INTRODUCTION

SECTION 1. The following described real property and improvements located in Maricopa County, Arizona, and more particularly described as:

Lots 1 through 60, and tracts "A" and "B", Summit View,  
according to the Book 417 of Maps, Page 50, Records of Maricopa  
County, Arizona (the "Property")

are subject to the following easements, restrictions, covenants and conditions on the Property to protect the value and desirability of the Property.

SECTION 2. Association hereby declares the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purposes of protecting the values and desirability of, and which shall run with, the above described Property and the easements, restrictions, covenants and conditions shall be binding upon all persons or entities having any right, title or interest in and to the above described Property or any part thereof, together with their heirs, personal representatives, successors and assigns.

SECTION 3. The easements, restrictions, covenants and conditions shall inure to the benefit of all persons or entities having any right, title or interest in and to the above-described Property or any part thereof, together with their heirs, personal representatives, successors and assigns.

## ARTICLE II: DEFINITIONS

SECTION 1. "Architectural Committee" means the committee established by the Board pursuant to Article IV, Section 4, of this Declaration.

SECTION 2. "Architectural Committee Rules" means the rules adopted by the Architectural Committee as said rules may be amended from time to time.

SECTION 3. "Articles" means the Articles of Incorporation of the Association which have been or will be filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

SECTION 4. "Association" shall mean and refer to Summit View Homeowners Association, Inc., an Arizona nonprofit corporation and its successors and assigns.

SECTION 5. "Association Rules" means the rules and regulations adopted by the Association, as the same may be amended from time to time.

SECTION 6. "Board" means the Board of Directors of the Association.

SECTION 7. "Bylaws" means the bylaws of the Association, as such bylaws may be amended from time to time.

SECTION 8. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

Tracts "A" and "B", Summit View, according to Book 415 of  
Maps, Page 50, Records of Maricopa County, Arizona.

SECTION 9. "First Mortgage" means any mortgage or deed of trust with first priority over any other mortgage or deed of trust.

SECTION 10. "First Mortgagees" means the holder of any First Mortgage.

SECTION 11. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Area.

SECTION 12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 13. "Plat" means the plat of survey of Summit View which plat has been recorded with the County Recorder of Maricopa County, Arizona, in Book 417 Of Maps, Page 50, and all amendments thereto.

SECTION 14. "Project" means the Property described in Article I, Section 1, and in Article II, Section 8, together with all buildings and other improvements located thereon and all easements, rights and appurtenances belonging thereto.

SECTION 15. "Project Documents" means this Declaration and the Articles, Bylaws, Association Rules and Architectural Committee Rules.

SECTION 16. "Property" shall mean and refer to that certain real property hereinbefore described.

SECTION 17. "Purchaser" means any person who by means of a voluntary transfer becomes the Owner of a Lot.

SECTION 18. "Single Family" means a group of one or more persons each related to the other by blood, marriage or legal adoption who maintain a common household in a dwelling.

SECTION 19. "Single Family Residential Use" means the occupation or use of a residence by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

SECTION 20. "Townhouse" means any portion of a building situated upon a Lot which is designed and intended for independent ownership for use and occupancy as a residence by a single family and which is connected by a Party Wall to another portion of the same building which portion is also designed and intended for independent ownership for and use and occupancy as a residence by a single family.

### ARTICLE III: PROPERTY RIGHTS

SECTION 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of members has been recorded;

B. The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the recreational facilities thereon, and any portion of the Property.

SECTION 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Area and facilities, if any, to the members of his/her family and/or his/her grandfathered tenants who reside on the property.

SECTION 3. Maintenance and Repair of Building. No building, residence, improvement or structure upon any Lot nor the landscaping on any Lot, shall be permitted to fall into disrepair, and it shall be the Owner's responsibility at Owner's sole cost and expense to maintain the Lot in a neat and clean manner free of trash and other unsightly objects. The Association shall have the right, but not the obligation to enter upon such Owner's Lot to perform all such maintenance, repair and replacement the Association deems necessary in its sole discretion upon the Owner's failure to do so within thirty (30) days after receiving written notice from the Association requesting such repair, replacement and/or maintenance be performed. The cost of such repair, replacement and/or maintenance performed by the Association shall be added to and become a part of the annual assessment to which the Lot is subject as hereinafter provided

in Article VII, Section 3.

The City of Scottsdale is not responsible for and will not accept responsibility for the maintenance of any of the Common Areas, improvements thereon in the Summit View subdivision described in Article I, Section 1 and/or Article II, Section 8, of the Covenants, Conditions and Restrictions.

#### ARTICLE IV: THE ASSOCIATION

SECTION 1. Rights, Powers and Duties. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in this Declaration.

SECTION 2. Board of Directors and Officers. The affairs of the Association shall be conducted by a board of directors (the "Board") and such officers and committees as the Board may elect or appoint, in accordance with the Articles and the Bylaws.

SECTION 2.1. Indemnification. The Association shall indemnify every Director and Officer and their heirs, executors, administrators, successors and assigns against all loss, cost and expense, reasonably incurred by them in connection with any action, suit or proceeding to which they may be made a party, by reason of being or having been a Director or officer of the Association, including reasonable matters wherein be shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of negligence, except to the extent such liability, damage or injury is covered by any type of insurance; however, this indemnification shall not cover any acts of gross negligence, wilful misconduct or with fraudulent or criminal intent. The foregoing rights shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

SECTION 3. Association Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations (the "Association Rules"). The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee of such Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be available for inspection by the Members at reasonable times. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

SECTION 4. Architectural Committee. The Board shall establish an architectural committee (the "Architectural Committee") consisting of not less than three (3) members appointed by the Board to regulate the external design, appearance and use of the Property and to

perform such other functions and duties as may be imposed upon it by this Declaration, the Bylaws or the Board.

#### ARTICLE V: MEMBERSHIP

SECTION 1. Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

SECTION 2. Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot and then only to such Purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association.

#### ARTICLE VI: VOTING RIGHTS

SECTION 1. Classes of Members. The Association shall have one class of voting membership:

Class A. Class A members shall be all Owners of Lots. Each Class A member shall be entitled to one (1) vote for each Lot owned.

SECTION 2. Joint Ownership. When more than one person is the Owner of 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 ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

SECTION 3. Corporate Ownership. In the event any Lot is owned by a corporation, partnership or other association, the corporation, partnership or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president or general partner of such corporation, partnership or association shall have the power to vote the membership.

SECTION 4. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any assessments or other amounts due under any of the provisions of this Declaration, the Articles, Bylaws and Association Rules and Architectural Committee Rules for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current, and for a period not to exceed 60 days for any infractions of the Declaration, the Articles, Bylaws and Association Rules and Architectural Committee Rules.

## ARTICLE VII: COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association: (1) annual assessments; (2) supplemental assessments; and (3) special assessments for capital improvements. The annual, supplemental and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due.

SECTION 2. Purpose of the Assessments. The assessments levied by the Association shall be used exclusively for the upkeep and maintenance of the Common Area and to maintain the front yard of the Lots, as the Association is obligated to maintain under Article XI of this Declaration.

### SECTION 3. Maximum Annual Assessment.

- (a) Any such annual assessment shall be paid on a monthly basis.
- (b) The Association shall not impose a regular assessment that is more than twenty percent (20%) greater than the immediately preceding fiscal year's assessment without the approval of a majority of the Members in the Association.

SECTION 4. Supplemental Assessments. In the event the Board shall determine that its funds budgeted or available in any fiscal year are, or will, become inadequate to meet all expenses of the Association, for any reason, including, without limitation, nonpayment of assessments by the Owners, it shall immediately determine the approximate amount of such inadequacies for such fiscal year and prepare a supplemental budget and levy a supplemental assessment against each Lot in such amount as the Board deems necessary in order to obtain the amount of such inadequacies. Notice of any such supplemental assessment shall be given to each Owner. The supplemental assessment shall be paid on such dates and in such installments as may be determined by the Board.

SECTION 5. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any fiscal year, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement of the Common Area, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any such assessment shall have the assent of Owners having at least two-thirds (2/3) of the votes entitled to be cast by Owners who are voting in person or by proxy at a meeting duly called for such purpose.

SECTION 6. Notice and Quorum for Any Action Authorized Under Article VII, Sections 3, 4 or 5. Written notice of any meeting called for the purpose of taking any action authorized under Article VII, Section 3 or 5, shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the number of votes present to constitute a quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 7. Uniform Rate of Assessment. Annual, supplemental and special assessments must be fixed at a uniform rate for all Lots.

SECTION 8. Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of the first Lot to a Purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Board may require that the annual assessment be paid in installments and in such event the Board shall establish the due dates for each installment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment, or any installment of an assessment, not paid within thirty (30) days after the assessment, or the installment of the assessment, first became due shall bear interest from the due date at the rate of six percent (6%) per annum or the prevailing fixed FHA/VA interest rate for new home loans, whichever is higher. Any assessment, or any installment of an assessment, which is delinquent shall become a continuing lien on the Lot against which such assessment was made. The lien may be perfected by the recordation of a "Notice of Claim of Lien" which shall set forth (1) the name of the delinquent Owner as shown on the records of the Association, (2)

the legal description, street address and number of the Lot against which the claim of lien is made, (3) the amount claimed as of the date of the recording of the notice including interest, lien recording fees and reasonable attorneys' fees, (4) the name and address of the Association. The Association's lien shall have priority over all liens or claims created subsequent to the recordation of the Notice of Claim of Lien except liens for real property taxes on the Lot, assessments on any Lot in favor of any municipal or other governmental body and the liens which are specifically described in Article VII of the Declaration.

Before recording a lien against any Lot the Association may make a written demand to the defaulting Owner for payment of the delinquent assessments together with interest and reasonable attorneys' fees, if any. Said demand may state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, the Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner. The Association shall not be obligated to release any lien recorded pursuant to this Section until all delinquent assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

The Association shall have the right, at its option, to enforce collection of any delinquent assessments, together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (a) bringing an action at law against the Owner personally obligated to pay the delinquent assessments and such action may be brought without waiving any lien securing any such delinquent assessments or (b) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

SECTION 10. Subordination of the Lien to Mortgages. The lien of the assessment as provided for in this Declaration shall be subordinate to the lien of any First Mortgage or deed of trust on any Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due from the lien thereof.

SECTION 11. Exemption of Owner. No Owner of a Lot may exempt himself from liability for annual, supplemental or special assessments levied against his Lot or for other amounts which he may owe to the Association under the Declaration, the Articles, Bylaws and Association Rules and Architectural Committee Rules by waiver and non-use of any of the Common Area and facilities, if any, or by the abandonment of his Lot.

SECTION 12. Maintenance of Reserve Fund. Out of the annual assessments, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area and such improvements on the Lots as the Association is obligated to maintain under Article VII of this Declaration.

SECTION 13. No Offsets. All Assessments shall be payable in accordance with the provisions of the Declaration, and no offsets against such Assessments shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Declaration, the Articles, Bylaws and Association Rules and Architectural Committee Rules.

#### ARTICLE VIII: PERMITTED USES AND RESTRICTIONS

SECTION 1. Residential Use. All Lots shall be used, improved and devoted exclusively to single family residential use. No gainful occupation, profession, trade or other nonresidential use shall be conducted on any Lot. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property without the prior written approval of the Architectural Committee.

SECTION 2. Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any property and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animals shall be maintained so as to be visible from neighboring property or street view. Upon the written request of any Owner, the Board shall determine whether, for the purposes of this Section, a particular animal is a generally recognized house or yard pet, or nuisance, or whether the number of animals on any such property is reasonable. Any decision rendered by the Board shall be enforceable to the same extent as other restrictions contained in this Declaration.

SECTION 3. Antennas. Antennas one meter or less in diameter or diagonal measurement which are designed for over-the-air reception of signals for direct broadcast satellites (DBS), multi-channel multi-point distribution (wireless cable) providers (MMDS) or television broadcast stations (TVBS), together with their associated mounting hardware and mast, if applicable (an "Antenna System") and which are placed, installed or kept on a Lot must comply with the following restrictions, unless the particular restriction would impair the user's ability to receive signals from a provider of DBS, MMDS or TVBS (a "Provider"):

(a) An antenna System must be placed on the Lot in such a manner as to not be visible from any other Lot, the Common Area or any street.

(b) If an Antenna System cannot be placed on the Lot in such a manner as to not be visible from any other Lot, the Common Area or any street without impairing the user's ability to

receive signal from a Provider, an Antenna System must be screened by landscaping or by some other means so that it is not visible from any other Lot, the Common Area or any street, unless screening would impair the user's ability to receive signals from a Provider, in which case and Antenna System must be screened by landscaping or by some other means to reduce the greatest extent possible its visibility from other Lots, the Common Area or streets without impairing the user's ability to receive signals from a Provider.

(c) If no other location is available without impairing the user's ability to receive signals from Provider and an Antenna System must be mounted on a residence or other structure and is visible from any other Lot, the Common Area or any street, the Antenna System must be painted a color which will blend into the background against which the Antenna System is mounted.

(d) Antenna Systems designed to receive video program services from MMDS or TVBS which require masts to receive an acceptable signal must be mounted on masts which do not exceed twelve feet (12') in height above the roofline, provided that no mast shall be higher than the height necessary to establish line of sight contact with the transmitter.

A restriction contained in this Section shall be deemed to impair the user's ability to receive signals from a Provider if compliance with the restriction would unreasonably delay or prevent installation maintenance or use of an Antenna System, unreasonably increase the cost of installation, maintenance or use of an Antenna System or preclude reception of an acceptance quality signal. No dish which exceeds one meter in diameter or diagonal measurement, or any television or radio antenna or any mast which exceeds twelve feet (12') in height above the roofline may be placed, installed, constructed or kept on any Lot without the prior written approval of the Board of Directors or the Architectural Committee.

SECTION 4. Utility Service. Except as approved in writing by the Architectural Committee, no lines, wires, or other devices for the transmission of electric current or power, including telephone and radio signals, shall be erected, placed or maintained anywhere in or upon any property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.

SECTION 5. Improvements and Alterations. No improvements, alterations, repairs, excavations, landscaping (except for such planting and landscaping as is installed in accordance with the initial construction of buildings on a Lot or such planting or landscaping as is enclosed by a fence or wall or in area not maintained by the Association) or other work which in any way alters the exterior appearance of any property or the improvements located thereon from its natural or improved state existing on the date such property was first conveyed in fee to a Purchaser, shall be made or done without the prior written approval of the Architectural

Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, landscaping, residence or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the Architectural Committee. No change or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee. All decisions of the Architectural Committee shall be final and no Owner or other parties shall have recourse against the Architectural Committee for its refusal to approve any such plans and specifications or plot plan, including lawn area and landscaping.

SECTION 6. Temporary Occupancy. No trailer, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used at any time on any portion of the Property for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any such property shall be removed immediately after the completion of construction. Garages and patios cannot be turned into living spaces.

SECTION 7. Trucks, Trailers, Campers and Boats. No mobile home, motor home, trailer, truck, camper, truck with a camper shell, boat, watercraft, boat trailer, commercial or similar vehicle with or without advertising or equipment shall be parked, kept, placed, maintained, constructed, reconstructed, serviced or repaired, upon any street (public or private), Lot, driveway, or Common Area. For the purpose of this section, a 3/4 ton or smaller vehicle commonly known as a pick-up truck shall not be deemed to be a truck. An exception to this section is a public service vehicle as defined by the Arizona Planned Communities Act. Any mobile home, motor home, trailer, truck, camper, truck with a camper shell, boat, watercraft, boat trailer, commercial or similar vehicle, with or without advertising, or equipment parked, kept, or placed in violation of this section may be towed by the Association after 24 hours notice of towing is posted on the truck, trailer, camper and boat by the Association.

SECTION 8. Motor Vehicles. No automobile, motorcycle, motorbike or other vehicle shall be constructed, reconstructed, serviced or repaired on any Lot, Common Area, street (public or private) or other property so as to be visible from neighboring property, and no inoperable vehicle may be stored or parked on any Lot, Common Area, street (public or private) or any other property, so as to be visible from neighboring property; provided however, the provisions of this Section 8 shall not apply to emergency repairs. No Owner or guest of an Owner may park a motor vehicle on the streets of the Property for more than forty-eight (48) contiguous hours. All motor vehicles shall be parked in garages and/or driveways. Owners and guests of Owners are prohibited from parking in front of the Association mailboxes. All motor vehicles stored or parked on common areas in violation of this Section may be towed by the Association at the Owner's expense after 24 hours notice of towing is posted on the motor vehicle.

Gas powered mopeds, gopeds, go-carts and similar items are prohibited in the Association. All Owners and guests of Owners shall abide by the 15 mph speed limit on the Property.

SECTION 9. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any property and no odors shall be permitted to arise therefrom, so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property as to be offensive or detrimental to any of the property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, shall be located, used or placed on any such property.

SECTION 10. Trash Containers and Collection. No garbage or trash shall be placed or kept on any property except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property or street view except to make the same available for collection and then, only for the shortest time reasonably necessary to effect such collection. The Board shall have the right to require all Owners to place their garbage or trash containers at a specific location for collection or to require all Owners to subscribe to a trash collection service. All rubbish, trash and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot. No garbage or trash containers shall be kept or placed on any grass or other landscaped area.

SECTION 11. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes or other items shall not be erected, placed or maintained on any property so as to be visible from neighboring property. This includes railings, walls, etc.

SECTION 12. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any property except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a residence, appurtenant structures, or other improvements, and except that which the Association may require for the operation and maintenance of the Property.

SECTION 13. Restriction on Further Subdivision and Time Shares. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner without the prior written approval of the Board. Neither the ownership nor occupancy of any Lot shall be in time shares. No Owner shall transfer, sell, assign or convey any time share in his Lot and any such transaction shall be void. "Time share" as used in this Section shall mean the right to occupy a Lot or any one of several Lots during five (5) or more separated time periods less than thirty (30) days per period over a period of at least five (5) years, including renewable options, whether or not coupled with an estate or interest in a Lot or a specified portion of a Lot.

SECTION 14. Signs. No signs whatsoever (including, but not limited to, commercial, advertising, political and similar signs) shall be erected or maintained anywhere on the Property including but not limited to, the inside or outside of windows in any building located on the

Property, except:

- (a) Such signs as may be required by legal proceedings;
- (b) Not more than one (1) residential identification sign with a total face area of eighty (80) square inches or less for each Lot; and
- (c) One (1) "for rent" or "for sale" sign not larger than five (5) square feet for each Lot, and not hand made, erected on wooden posts, provided such sign has been approved in writing by the Architectural Committee.

SECTION 15. Planting and Landscaping. Except for (i) such planting and landscaping as is installed in accordance with the initial construction of buildings on a Lot, or (ii) such planting and landscaping as is enclosed by a fence or wall or in an area not maintained by the Association, no planting or landscaping shall be done and no fences, hedges or walls shall be erected or maintained on any Lot without the prior written approval of the Architectural Committee.

SECTION 16. Leasing Prohibited. No Owner of a Lot shall rent or lease such Lot, provided that any Owner, as of the date of adoption of this provision may continue renting or leasing his/her/their/its Lot, except that such right to rent or lease the Lot shall terminate upon the sale of the Lot by the person(s) who are Owners at the time of adoption of this provision.

Each Owner of a Lot that is being rented or leased shall provide the Board of Directors with documentation (i.e., a copy of the lease) of each such existing tenancy and a non-owner information form (which can be obtained from the Association) within thirty (30) days of adoption of this provision or at least ten (10) days prior to the date of commencement of the tenancy, whichever is earlier, and thereafter with documentation (i.e., a copy of the lease) and non-owner information form (which can be obtained from the Association) of each new tenancy within ten (10) days of commencement of each such tenancy. Such documentation shall include the names and telephone numbers of the tenants and the term of the tenancy. Owners can only lease to single families as defined by this document. All leases must have: a minimum term of six (6) consecutive months; a provision that states if a tenant or a tenant's guests violate the Association's documents, the Owner and the Association have the right to evict the tenant; and a provision that states that sub-leasing of units by tenants is prohibited. It shall be the responsibility of the Owner(s) to provide the tenants with current copies of the Declaration of Covenants, Conditions and Restrictions, By-Laws and Rules and Regulations and amendments thereto. Owners are responsible for the actions and damage caused by tenants and their guests.

The Board of Directors may permit a Lot Owner to lease his/her Lot for a reasonable period of time whenever, in its opinion, such action may be necessary or desirable to alleviate a hardship resulting from death, extended illness, transfer or other similar cause.

## ARTICLE IX: EASEMENTS

SECTION 1. Utility Easement. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas telephone, electricity and a cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility to erect and maintain the necessary poles and other necessary facilities and equipment on the Common Area. This easement shall in no way affect any other recorded easements on the Common Area.

SECTION 2. Easement for Encroachments. In the event a Single Family House constructed on a Lot encroaches upon another Lot or the Common Area, a valid easement for such encroachment and for the maintenance of same, so long as it stands, shall and does exist.

SECTION 3. Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Owners, and their family, guests, tenants and invitees for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same from time to time may exist upon the Common Area; and for vehicular traffic over, through and across such portions of the Common Area as from time to time may be paved and intended for such purposes; and for such other purposes reasonably necessary to the use and enjoyment of a Lot or the Common Area.

SECTION 4. Association's Easement For Performing Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Common Area and the Lots for the purpose of repairing, maintaining and replacing the Common Area and those portions of the Lots which the Association is obligated to maintain under Article VII of this Declaration.

## ARTICLE X: PROPERTY RIGHTS

SECTION 1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area. Said easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) the right of the Association to adopt reasonable rules and regulations governing the use of the Common Area and all facilities located thereon, and any portion of the Property;

(b) the right of the Association to suspend the voting rights and the rights to the use of the recreational facilities, if any, of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Declaration, the Articles, Bylaws and Association Rules and Architectural Committee Rules;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that no such dedication or transfer shall be effective unless evidenced by an instrument signed by at least two-thirds (2/3) of Members;

SECTION 2. Delegation of Use. Any Owner may delegate, subject to this Declaration and the Association Rules, his/her right of enjoyment of the Common Area and facilities to the members of his/her family, his/her grandfathered tenants, his/her guests or invitees, provided such delegation is for a reasonable number of persons and at reasonable times.

SECTION 3. Limitations. An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot. Such right and easement of enjoyment in and to the Common Area shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Owner's Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to the Common Area.

#### ARTICLE XI: MAINTENANCE

SECTION 1. Maintenance of Common Area by the Association. The Association shall be responsible for the maintenance, repair and replacement of the Common Area and may, without any approval of the Owners being required, do any of the following:

(a) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such are (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);

(b) Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway and parking area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);

(c) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

(d) Place and maintain upon any such area such signs as the Board may deem appropriate for the property identification, use and regulation thereof;

(e) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the appearance thereof, in accordance with the general purposes specified in this Declaration.

**SECTION 2. Exterior Maintenance By Association.** In addition to the maintenance, repair and replacement of the Common Area, and the Improvements located thereon, the Association shall maintain, repair and replace the front yards landscaping on the Lots except for such landscaping as is located within a front yard that is enclosed by a fence or wall. In addition, the Association shall maintain, repair the pool, pool area and if present the cabana located thereon. In addition, the Association shall maintain the paint on the exterior walls of the buildings contained in the Project. In the event the need for maintenance, repair or replacement of any portion of the Lots which are to be maintained by the Association pursuant to this Section is caused by the wilful or negligent act of an Owner, his/her family, guests, invitees or animals for whom he is legally responsible under Arizona law, the Association shall cause the maintenance or repair to be performed, and the cost of such maintenance or repair shall be paid by the Owner upon demand, such amount shall be a lien upon any Lots owned by the Owner, and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of assessments.

**SECTION 3. Maintenance by Owners.** Each Owner shall be solely responsible for the maintenance, repair and replacement of the following portions of his Lot:

(a) The interior of his/her Townhouse including, the interior of any yard, patio, garage or other area enclosed by fence or wall and the contents thereof, and any air conditioning unit, heating unit, hot water heater and other fixtures and equipment which service his individual Townhouse. This obligation shall include, but not be limited to, the maintenance, repair, and replacement of windows, doors and all interior surfaces of Townhouse, including, without limitation, floors, ceilings, interior wall surfaces, sheet rock (plasterboard), or wall covering;

(b) The roof of his Townhouse;

(c) Any fixtures or pipes within his Townhouse and any utility lines or pipes from the Owner's Lot line to his Townhouse; and

(d) Such landscaping as is located in the front yard which is enclosed by a fence or wall and any landscaping contained on any side yard or backyard.

No Owner of a Lot shall do any work which will impair the structural integrity of the building in which his/her Townhouse is located or which will adversely affect any other Townhouse or the Common Area. No Owner shall perform any maintenance or repair work which would alter the exterior appearance of his Townhouse without the prior written approval of the Architectural Committee.

**SECTION 4. Damage or Destruction of Common Area by Owners.** No Owner, guest of Owner or pet of Owner shall in any way damage or destroy any Common Area or interfere with

the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner, guest of Owner or pet of Owner shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefor under Arizona law, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of assessments.

SECTION 5. Payment of Utility Charges. Each Lot shall be separately metered for water, sewer and electrical service and all charges for such service to Lots shall be the sole obligation and responsibility of the Owner of each Lot. All bills for water, sewer and electric service to the Common Area shall be billed to the Association, and the Association shall be responsible for the payment of such charges.

SECTION 6. Termite and Pest Control. The Association shall have the right, but not the obligation, to perform, or contract to have performed on behalf of the Association, termite and pest control service for the Lots, and the Improvements located thereon, except for the interior of the single family house located thereon. In the event the Association exercises its right under this Section to provide termite and pest control service to the Lots, the cost of such service shall be a common expense of the Association and shall be assessed to the Owner as part of the annual assessment levied by the Association. If the Association does not exercise its right under this Section to provide termite and pest control service to the Lots, then each Owner shall be responsible for performing, or contracting to have performed, such termite and pest control service for his Lot as is necessary to keep his Lot, and the Improvements located thereon, free from termite and pest infestation.

SECTION 7. Damage or Destruction of Common Area by Owners. No Owner shall in any way damage or destroy any Common Area or interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner, an Owner's guest or tenant shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefor under Arizona law, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of assessments.

SECTION 8. Nonperformance by Owners. If any Owner fails to maintain any portion of his Lot, and the improvements located thereon, which he is obligated to maintain under the provisions of the Project Documents, the Association shall have the right, but not the obligation, to enter upon such Owner's Lot to perform the maintenance and repairs not performed by the Owner, and the cost of any such work performed by or at the request of the Association shall be paid for by the Owner of the Lot, upon demand from the Association, and such amounts shall be a lien upon the Owner's Lot and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

## ARTICLE XII: PARTY WALLS

SECTION 1. Rights and Duties of Adjoining Owners. The rights and duties of Owners of Lots with respect to party walls shall be governed by the following provisions:

(a) Each wall which is placed on the dividing line between separate Lots, including a wall dividing separate Townhouses, shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burden and be entitled to the benefit of the restrictive covenants contained in this Declaration, and to the extent not inconsistent with this Declaration, the general rules of law regarding party walls shall be applied;

(b) The cost of reasonable repair and maintenance of a party wall shall be shared by the adjoining Owners of such wall in proportion to the use thereof, without prejudice, however, to the right of any Owner to call for a larger contribution from the adjoining Owner under any rule of law regarding liability for negligent or wilful acts or omissions;

(c) In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family (including a loss by fire or other casualty or ordinary wear and tear and deterioration from lapse of time) then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense; provided, however, that if the insurance proceeds payable to such Owners are insufficient to completely rebuild the party walls then the Association shall have the right to obtain the funds necessary to rebuild the party walls by levying a special assessment pursuant to Article VII, Section 5, of this Declaration;

(d) Notwithstanding any other provisions of this Article, an Owner who, by his negligent or wilful act, causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements;

(e) The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owners and their successors in title;

(f) In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a party wall, shall first obtain the written consent of the adjoining Owner and the Board;

(g) In the event of a dispute between Owners with respect to the repair or the rebuilding of a party wall or with respect to sharing of the costs thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to arbitration under such rules as made from time to time that are adopted by the Association. If no

such rules of arbitration have been adopted by the Association, then the matter in dispute shall be submitted to and be governed by the rules of the American Arbitration Association. The determination of the arbitrator shall be binding and final and shall not be subject to appeal.

(h) The provisions of this Article shall be binding upon the heirs and assigns of any Owners, but no person shall be liable for any act or omission respecting the party wall except such as took place while he was an Owner.

### ARTICLE XIII: INSURANCE

SECTION 1. Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to a person, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(a) Comprehensive general liability insurance in an amount determined by the Board, but not less than \$1,000,000.00. Such insurance shall cover 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 Area and all other portions of the Property which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

(b) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona;

(c) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners;

(d) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(1) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition of recovery on the policy;

(2) That the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust;

(3) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of the negligent acts of the Association or other Owners;

(4) Statement of the name of the insured as Summit View Homeowners Association, Inc.

(e) If the Property is located in an area identified by the Secretary of Housing & Urban Development as an area having special flood hazards, a policy of flood insurance on the Common Area must be maintained in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other property covered by the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended.

SECTION 2. Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

SECTION 3. Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Article shall be included in the budget of the Association and shall be paid by the Association.

SECTION 4. Insurance Obtained by Owners. Each Owner shall be responsible for obtaining property insurance for his own benefit and at his own expense covering his Lot and his Single Family House and all other Improvements situated on his Lot and all personal property situated on his Lot. Each Owner shall also be responsible for obtaining at his own expense liability insurance covering claims arising out of or in connection with the use, ownership or maintenance of his Lot.

SECTION 5. Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 6 of this Article, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area. With respect to any loss to any Lot, or the Improvements located thereon, which is covered by property insurance obtained by the Association, the loss shall be adjusted with the Owner of said Lot and the proceeds shall be payable to said Owner and any holders of liens on said Lot as their interest may appear.

SECTION 6. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves

shall be paid by the Association. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a reconstruction assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such Lot Owner.

#### ARTICLE XIV: RIGHTS OF MORTGAGEES

SECTION 1. In the event the Association becomes in default in the payment of taxes, assessments or other charges pertaining to the common area, one or more holders of first mortgages and/or first deeds of trust on Lots within the subdivision shall have the right, but not the obligation, acting jointly or singly, to cause said obligations to be paid. Upon such payment, the Association shall become indebted to such mortgagee or mortgagees in the amount so paid, and such indebtedness shall be immediately due and payable.

SECTION 2. Should the Association fail to timely pay the premiums on liability and hazard insurance on property owned by the Association which insurance will be maintained in such amounts as are required by the Federal Home Loan Mortgage Corporation, one or more holders of first mortgages and/or first deeds of trust on Lots within the subdivision shall have the right, but not the obligation, acting jointly or singly, to cause said premiums to be paid. Upon such payment, the Association shall become indebted to such mortgagee or mortgagees in the amount so paid and such indebtedness shall be immediately due and payable. In addition, the Association shall procure and maintain fidelity insurance coverage insuring the Association against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds collected and held for the benefit of the Owner; such coverage shall be in such amount as is required by the Federal Home Loan Mortgage Association.

SECTION 3. The holder of a first mortgage or first deed of trust on any Lot within the subdivision shall have the right, upon submitting a written request to the Association, to receive written notification from the Association of any default by the Owner of the subject Lot under the provisions of the Summit View Amended and Restated Declaration of Covenants, Conditions and Restrictions which has continued for a period of not less than sixty (60) days.

#### ARTICLE XV: PROFESSIONAL MANAGEMENT

The Association shall have the right to retain the services of a professional manager or management company for the Summit View. In the event the Association does enter into an agreement with a third party for the professional management of the subdivision, such agreement shall be for a term of not more than one year and shall be terminable by either party without cause and without payment of a termination fee or penalty upon thirty (30) days written notice from the terminating party to the other.

## ARTICLE XVI: GENERAL PROVISIONS

SECTION 1. Enforcement. The Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time by an instrument signed by not less than two-thirds (2/3) of the Owners.

SECTION 4. Arbitration. In the event of any dispute or disagreement between any Owners relating to the Project or any question of interpretation or application of the Project Documents, the determination thereof by the Board of Directors shall be final and binding on each and all of the Owners. If a decision cannot be reached by the Board of Directors in connection with any matter submitted to or considered by the Board of Directors, such matter may be submitted and settled in accordance with the current rules and regulations of the American Arbitration Association in Maricopa County, Arizona, and any decision made or rendered thereon shall be final and binding upon all of the Owners and the Association.

Section 5. Fines and Penalties. Pursuant to Arizona Revised Statutes Section 33-1803(b), the Association shall have the power to impose monetary penalties upon the Owner(s) of Lots for violations of the Declaration, Bylaws, and Rules and Regulations of the Association. This power shall apply to violations by the Owner(s), and the Owners(s) shall be liable for any violation committed by a family member, guest, tenant, or other occupant of the Lot Owner(s). The amount of monetary penalties shall be determined based on the nature of the offense and the number of violations. The amount so established by the Association's Board of Directors shall range from a minimum of \$25.00 to a maximum of \$500.00 per occurrence. The Owner(s) in question shall be given an opportunity to be heard by the Board or its enforcement committee appointed by the Board prior to the assessing of any monetary penalties, and written notice of said hearing shall be given at least 15 days in advance of the hearing by regular mail or by hand-delivery at the last known address of the Owner(s). Once it has been determined that the Owner(s) is guilty of continuing violation, the Board may impose reasonable monetary penalties for each subsequent day of the violation and such continuing penalties shall remain in effect until the Owner(s) notify the Board that the violation has ceased and the Board has confirmed that this, in fact, is the case. Any penalties assessed against the Owner(s) may be enforced against the Lot

of an Owner(s) in the same manner established in the Declaration in regard to delinquent maintenance assessments and said Owner(s) shall be liable in this manner for all violations committed by family members, guests, tenants or any other occupant of the Owner(s).

IN WITNESS WHEREOF, the undersigned, being the President and Secretary of Summit View Homeowners Association, Inc. herein, have hereunto executed this Declaration this 26TH day of APRIL, 2004.

**Summit View Homeowners  
Association, Inc.**

By Ervin Galecki

Its: PRESIDENT

**Summit View Homeowners  
Association, Inc.**

By Gleaver Postell

Its: SECRETARY

STATE OF ARIZONA       )  
                                      ) ss:  
County of Maricopa       )

The foregoing instrument was acknowledged before me this 26TH day of APRIL, 2004, by ERVIN A GALECKI, the PRESIDENT of SUMMIT VIEW HOMEOWNERS ASSN INC. on behalf of the corporation.

Maria Rosana Pina  
Notary Public

My Commission Expires: \_\_\_\_\_



STATE OF ARIZONA           )  
                                          ) ss:  
County of Maricopa         )

The foregoing instrument was acknowledged before me this 24<sup>TH</sup> day of APRIL, 2004, by ELEANOR POSTE-WHITLOCK, the SECRETARY of SUMMIT VIEW HOMEOWNERS ASSN. INC. behalf of the corporation.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



**AMENDED AND RESTATED**  
**BY-LAWS**  
**OF**  
**SUMMIT VIEW HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**

NAME AND LOCATION. The name of the corporation is Summit View Homeowners Association, Inc. hereinafter referred to as the "Association". The principal office of the corporation shall be located in Scottsdale, Arizona, or Maricopa County, Arizona, but meeting of members and directors may be held at such places within the State of Arizona, as may be designated by the Board of Directors.

**ARTICLE II**

Section 1. "Association" shall mean and refer to Summit View Homeowners<sup>2</sup> Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including

contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of Maricopa County, Arizona Recorder.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 8. "Purchaser" means any person other than the Declarant who by means of a voluntary transfer becomes the Owner of a Lot.

Section 9. "Articles" means the Articles of Incorporation of the Association which have been or will be filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

Section 10. "Bylaws" means the bylaws of the Association, as such bylaws may be amended from time to time.

Section 11. "Association Rules" means the rules and regulations adopted by the Association, as the same may be amended from time to time.

### ARTICLE III

#### MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock p.m., or at any other time designated by the Board. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the

same hour on the first day following which is not a legal holiday.

Section 2. Special Meeting. Special meetings of the members may be called at any time by the president or by the Board of Directors or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes.

Section 3. Notice of Meeting. Written notice of each meeting of the members shall be given by, or at the directions of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereon, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meeting of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

Section 6. Voting Rights.

(a) Classes of Members. The Association shall have one class of voting membership:

(i) Class A. Members shall be all Owners of Lots. Members shall be entitled to one (1) vote for each Lot owned.

(b) Joint Ownership. When more than one person is the Owner of 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 ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

(c) Corporate Ownership. In the event any Lot is owned by a corporation, partnership or other association, the corporation, partnership or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president or general partner of such corporation, partnership or association shall have the power to vote the membership.

(d) Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any assessments or other amounts due under any of the provisions of this Declaration, the Articles, Bylaws and Association Rules and Architectural Committee Rules for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are

brought current, and for a period not to exceed 60 days for any infractions of the Declaration, the Articles, Bylaws and Association Rules and Architectural Committee Rules.

#### ARTICLE IV

##### BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors consisting of three (3) directors.

Section 2. Term of Office. At the first annual meeting, the members shall elect one director for a term of one year, one director for a term of two years, and one director for a term of three years. At each annual meeting thereafter, the members shall elect one director for a term of three years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his/her predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## ARTICLE V

### NOMINATION AND ELECTION OF DIRECTORS

Section 1 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall also be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI

### MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors may be held bi-monthly at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held

when called by the President of the Association, or by any director, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

## ARTICLE VII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area and facilities and any other area on the Property, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by the provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) employ a manager, an independent contractor, or such other employee as

they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
  - (1) fix the amount of the monthly assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
  - (2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each monthly assessment period; and
  - (3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same; provided, however, the Board of Directors shall have the sole discretion to extend the period of time within which to bring a foreclosure action.
- (d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on property

owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained.

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for three (3) years unless each shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time giving written notice to the Board of Directors, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise

specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaced.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President

The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice-President

The vice-president shall act in the place and stead of the president in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary

The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board of Directors and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

(d) Treasurer

The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit at the Board's discretion of the Association books to be made by a certified public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the members.

**ARTICLE IX**

**COMMITTEES**

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

**ARTICLE X**

**BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE XI**

### **ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 6 percent per annum 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 and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

## **ARTICLE XII**

### **AMENDMENTS**

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

## **ARTICLE XIII**

### **MISCELLANEOUS**

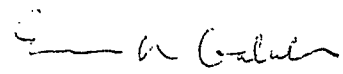
The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of

corporation.

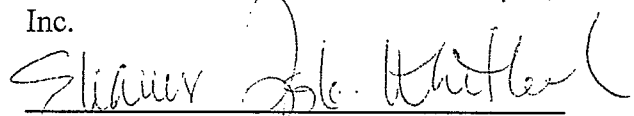
**CERTIFICATION**

The undersigned, being the duly elected President and Secretary of Summit View Homeowners Association, Inc. hereby certifies that the foregoing amendment to the Bylaws of Summit View Homeowners Association, Inc. were duly adopted in accordance with the requirements of the Bylaws

Dated this 26<sup>th</sup> day of APRIL, 2004.



\_\_\_\_\_  
President  
Summit View Homeowners Association,  
Inc.



\_\_\_\_\_  
Secretary  
Summit View Homeowners Association,  
Inc.

ARTICLES OF AMENDMENT

TO

ARTICLES OF INCORPORATION

OF

SUMMIT VIEW HOMEOWNERS ASSOCIATION, INC.

RECEIVED

MAY 11 2004

ARIZONA CCRR COMMISSION  
CORPORATIONS DIVISION

Pursuant to the provisions of Title 10, Chapter 33, Article 1, Arizona Nonprofit Corporation Act, the undersigned corporation adopts the attached Articles of Amendment to its Articles of Incorporation:

FIRST: The name of the corporation is **SUMMIT VIEW HOMEOWNERS ASSOCIATION, INC.** ("Association").

SECOND: The document attached hereto as Exhibit A sets forth the amendment to the Articles of Incorporation which was adopted by the assent of 2/3 of the entire membership of the Association.

THIRD: The resolution of the Board of Directors to amend the Articles of Incorporation was also duly adopted by an act of the Board of Directors in the manner prescribed by the Arizona Nonprofit Corporation Act.

DATED: APRIL 26, 2004

**Summit View Homeowners Association, Inc.**

By: [Signature]

Title: President

By: [Signature]

Title: Secretary

STATE OF ARIZONA       )  
                                      )  
County of Maricopa       )

On this 26<sup>TH</sup> day of APRIL, 2004, before me, the undersigned Notary Public, in and for the County of Maricopa in the State of Arizona, personally appeared ERVIN A GALECKI and being authorized so to do, executed this document.

NOTARY PUBLIC: Maria Rosana Pina

My Commission Expires: OCTOBER 8, 2005



STATE OF ARIZONA       )  
                                      )  
County of Maricopa       )

On this 26<sup>TH</sup> day of APRIL, 2004, before me, the undersigned Notary Public, in and for the County of Maricopa in the State of Arizona, personally appeared ELEANOR POSTE-WHITLOCK and being authorized so to do, executed this document.

NOTARY PUBLIC: Maria Rosana Pina

My Commission Expires: OCTOBER 8, 2005



**EXHIBIT A**  
**AMENDMENT TO**  
**ARTICLES OF INCORPORATION**  
**OF**  
**SUMMIT VIEW HOMEOWNERS ASSOCIATION, INC.**

1. Article IV (d), (e) and (f) only are deleted and replaced with the following language:

**ARTICLE IV.**

**PURPOSE AND POWERS OF THE ASSOCIATION**

(d) borrow money, and with the assent of two-thirds (2/3) of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that

any such merger, consolidation or annexation shall have the assent  
of two-thirds (2/3) of members;

2. Article VI, Section 1 is deleted and replaced with the following:

**ARTICLE VI.**

**VOTING RIGHTS**

**SECTION 1. Classes of Members.** The Association shall have one class of voting  
membership:

**Class A.** Members shall be all Owners of Lots. Each Class A member shall be  
entitled to one (1) vote for each Lot owned.

3. Article IX is deleted and replaced with the following:

**ARTICLE IX.**

**DISSOLUTION**

The Association may be dissolved with the assent given in writing and signed by not less  
than two-thirds (2/3) of members. Upon dissolution of the Association, other than incident to a  
merger or consolidation, the assets of the Association shall be dedicated to an appropriate public  
agency to be used for purposes similar to those for which this Association was created. In the  
event that such dedication is refused acceptance, such assets shall be granted, conveyed and  
assigned to any nonprofit corporation, association, trust or other organization to be devoted to  
such similar purposes.