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DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

SOUTHVIEW TRAILS COMMUNITY ASSOCIATION

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AMENDED AND RESTATED

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SOUTHVIEW

This Amended and Restated Declaration of Covenants, Conditions and Restrictions ("Declaration"), for Southview , is made this 12th day of March, 2005 by Southview Trails Community Association, Inc. (the "STCA"), being so authorized to act by the affirmative written assent or vote of not less than two-thirds (2/3rds) of the voting power of the members of the STCA.

RECITALS

A. By that certain Declaration of Covenants, Conditions and Restrictions of Southview recorded June 1, 1995, as Instrument No. 9527302 in the official records of Yavapai County, Arizona, Book 3023, Pages 381 to 424 (the "Original Declaration"), Chamberlain Development, L.L.C. (the "Declarant") imposed certain conditions, covenants, restrictions and created other property and contract rights burdening and benefiting the real property described in the Original Declaration (the "Real Property").

B. The Original Declaration was amended by (i) the First Amendment to Declaration of Covenants, Conditions and Restrictions of Southview recorded April 9, 1998, as Instrument No. 3029318 in the official records of Yavapai County, Arizona, Book 3562, Page 52 (the "First Amendment"), (ii) the Second Amendment to Declaration of Covenants, Conditions and Restrictions of Southview recorded November 26, 2001, as Instrument No. 3407030 in the official records of Yavapai County, Arizona, Book 3881, Page 72 (the "Second Amendment") and (iii) the Third Amendment to Declaration of Covenants, Conditions and Restrictions of Southview recorded November 26, 2001, as Instrument No. 3407029 in the official records of Yavapai County, Arizona, Book 3881, Page 71 (the "Third Amendment" and together with the First Amendment and the Second Amendment, hereinafter referred to as the "Amendments").

C. Section 13.14 of the Original Declaration provides for the amendment of the Original Declaration by the affirmative written assent or vote of not less than two-thirds (2/3rds) of the voting power of the members of the STCA.

NOW THEREFORE, the Original Declaration as amended by the Amendments is hereby amended and restated in its entirety and the provisions of this Amended and Restated Declaration are hereby imposed upon the Real Property which shall hereafter be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights hereinafter set forth, all of which shall run with the land and be binding upon the Real Property and all parties having or acquiring any right, title or interest in or to the Real

Property, or any part thereof, and shall insure to the benefit of each owner thereof, the Association and each member of the Association.

1. DESCRIPTION OF REAL PROPERTY SUBJECT TO DECLARATION

1.1 Description of Real Property. The Real Property shall be composed of the Common Area and residential lots located on the Real Property. Upon conveyance of a residential lot to an owner, each owner shall also receive a nonexclusive right to use the Common Area.

1.2 Name of Real Property. The Real Property shall be referred to as "Southview".

1.3 No Severance of Residence Estate. No owner shall be entitled to sever or partition his interest in his lot from his right and easement to use and enjoy the Common Area. The right to use the Common Area as established by this Declaration shall not be separated, severed, partitioned or separately conveyed, encumbered, or otherwise transferred, whether together or separately, and such right to use the Common Area shall conclusively be deemed transferred or encumbered with the lot to which it is appurtenant even though the description in the instrument of conveyance or encumbrance may refer only to the lot. Nothing contained in this Article shall be construed to preclude an owner from creating a co-tenancy in the ownership of a lot with any other person or persons.

2. RIGHTS OF ENJOYMENT

2.1 Members' Right of Enjoyment. Every member of the Association shall have a nonexclusive easement for use and enjoyment in and to the Common Area, and such right shall be appurtenant to and shall pass with the fee interest in every lot, subject to all of the easements, covenants, conditions, restrictions and other provisions of record and as contained in this Declaration, including without limitation, the following:

(a) The right of the Association to limit the use of the Common Area by guests of members or by persons who are not members but who are in possession of a residence or own a portion of, or less than the entire ownership interest of a residence.

(b) The right of the Association to establish reasonable rules and regulations pertaining to the use of the Common Area.

(c) The right of the Association to borrow money for the purpose of improving, replacing, restoring or expanding the Common Area or adding new Common Areas and in aid thereof, to mortgage said property, provided that the prior affirmative vote or approval of the members entitled to cast two-thirds (2/3) of the voting power of the Association has been obtained to mortgage said property, and provided further that the rights of the lender thereunder shall be subordinate to the rights of the members.

(d) The right of the Association to suspend the right of a member or any person (including without limitation a member of the family of a member) to use the Common Area or any portion thereof designated by the

Association's Board during any time in which any assessment respecting such member remains unpaid and delinquent, or for a period not to exceed 60 days for any single infraction of the Association Rules and Regulations or breach of this Declaration, and up to one year for any subsequent violation of the same or similar provision of the Association Rules and Regulations or this Declaration. Notwithstanding the foregoing, the Association shall not have the right hereunder to suspend any member's right to use any portion of the Real Property necessary for such member to gain access to his lot.

(e) The right of the Association, subject to the approval rights of institutional mortgagees pursuant to the Article hereof entitled "Rights of Lenders", to dedicate or transfer all or any part of the Common Area to any public agency, authority, utility or other entity. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the voting power of the Association has been recorded, agreeing to such dedication or transfer. The signatures of the President and the Secretary of the Association attached to such instrument certifying that the members signing such instrument represent two-thirds (2/3) of the voting power of the Association shall be deemed conclusive proof thereof.

2.2 Delegation of Use. Any member may delegate his right of enjoyment to the Common Area to the members of his family or his tenants who reside in his residence, or to his guests, subject to rules and regulations adopted by the Association's Board.

2.3 Waiver of Use. No member may exempt himself (and no member shall be exempt) from personal liability for assessments or release any lot owned by him from the liens, charges and other provisions of this Declaration or the Association's Articles of Incorporation, Bylaws or Association Rules and Regulations, by voluntary waiver of, or suspension or restriction of such member's right to the use and enjoyment of the Common Area or the abandonment of such member's residence.

3. USE RESTRICTIONS

3.1 Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single family dwelling which may include patio walls, swimming pool, garages, carports, servants' quarters, guest houses, ramadas, or other similar residential structures. No business, commercial use, trade, or manufacturing of any nature or description shall be carried on or transacted on any portion of the Real Property. Except as required by applicable statute, no part of the Real Property shall be used as a hospital or sanitarium or other place for hire for the care or entertainment of persons suffering from any disease or disability whatsoever.

3.2 Lot Ownership and Dimensions. None of the lots shall be re-subdivided into smaller lots nor conveyed or encumbered in less than the full original dimensions of such lot, except for public utilities, provided that this restriction shall not prevent the conveyance or encumbrance of adjoining or contiguous lots or parts of lots in such a manner as to create parcels of land in a common ownership having the same or a greater street frontage than

originally provided and described for any one of the lots, portions of which are so conveyed or encumbered. Thereafter such part of adjoining or contiguous lots in such common ownership shall, for the purpose of these restrictions, be considered as one lot. Nothing herein contained shall prevent the dedication or conveyance of portions of lots for public utilities, in which event the remaining portion of any such lot shall, for the purpose of this provision, be treated as a whole lot.

3.3 Building Erection and Setbacks. No building shall be erected on any area, which is reserved for road purposes or is now dedicated for streets or easements, nor upon any area subsequently granted for utilities or drainage purposes. No building or structures shall be moved from other locations onto any lot and all improvements erected on a lot shall be of new construction. No structure of a temporary nature, such as a house trailer, shack, barn, or other out-building shall be used on any lot at any time either temporarily or permanently. All City of Prescott building setback requirements shall apply to the property. The location of any improvement shall be subject to the approval of the Architectural Control Committee. If side yard setback is to be less than 16 feet, a non-combustible material approved by the City of Prescott Building Department must be used.

3.4 Size. The floor area of the primary residential dwelling on each lot, exclusive of porches, garages, patios, showrooms, or any other similar extensions or projections, shall not be less than 2,000 square feet of livable area. When there is a second story or a basement, the ground level must be at least 1,400 square feet. Each dwelling must provide at least a double garage. Any variation from these minimum square footages must be approved in writing by the Architectural Control Committee as provided in Article 4.

3.5 Roofs. Combustible wood shakes or shingles are prohibited.

3.6 Fences (Perimeter/Boundary). Fencing shall not be used to define limits of property ownership but rather to create spaces of privacy, child protection, animal control, or architectural effect. Plans must show length, height, design, materials used, finishes, and color. These plans must be submitted to and approved by the Architectural Control Committee. Fences must comply with the requirements of the Architectural Standards and Procedures.

3.7 Easements. Easements for installation and maintenance of utilities and for drainage facilities have been created as shown on the plat of the Real Property. Within these or any easements subsequently granted for utilities or drainage purposes or permitted in writing by the applicable utility company or governmental authority, no structure, planting or other materials shall be placed or permitted to remain which may interfere with the installation and maintenance of the utlility facilities. Any easement area upon a lot and all improvements located thereon shall be maintained continuously by the owner of that lot, except for those improvements for which a public authority or utility company is responsible.

3.8 Obstructive Materials. Firewood, repair materials, storage sheds, tools, lawn equipment, and other temporary or permanent equipment must be screened or stored completely so as not to be visible from any street or any other lot. Air conditioners and coolers must not be mounted on the roof. No

visible television antennas will be allowed. Ham radio towers must be of the electrically or automatically raised type when in use and lowered from view when not in use.

3.9 Garages. No garage or other building shall be erected on any of the lots until a dwelling house shall be erected. During or after the erection of such dwelling house, the garage or other out-building may be used for non-paying guests or for actual servants or employees of the occupants of the main residential building, provided no such quarters shall be rented or used for income purposes. The garage doors must remain closed at all times except when in use in entering or leaving the premises.

3.10 Driveways and Walks. All driveways must be constructed of concrete. Walkways must be made of concrete, masonry, wood or similar materials. No asphalt pavement or gravel will be permitted.

3.11 Signs. Only such signs as permitted by the Architectural Standards and Procedures and/or the Rules and Regulations adopted from time to time by the Architectural Control Committee and/or the Board of Directors shall be erected, placed or permitted to remain on any of the lots. No billboards, unsightly objects or nuisance items shall be erected, placed or permitted to remain on any of the lots.

3.12 Nuisance. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any lot so as to render any such property in the vicinity thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No motor vehicles shall be operated on the property so as to create a loud or annoying noise which is hereby deemed a nuisance. No nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of the foregoing provisions, no exterior horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, use or placed on any such property within the Real Property. The Board in its sole discretion shall have the right to determine the existence of any such nuisance. Any decision rendered by the Board shall be enforceable as other restrictions contained herein.

3.13 Livestock and Poultry. No animals, including livestock or poultry of any kind, shall be raised, bred or kept on any lot except a reasonable number of dogs, cats, or other generally recognized household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Dogs shall be kept within structures or fences or on secured leashes. No animal shall be allowed to make an unreasonable amount of noise or a nuisance. Upon the written request of any owner, the Board shall conclusively determine, in its sole discretion, whether a particular animal is a nuisance or the number of animals on any such property is unreasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained herein.

3.14 Landscaping. All landscaping shall be completed no later than six (6) months following the date of final inspection by the City of Prescott, either by the homeowner or by the contractor. Landscape design shall be submitted to and approved by the Architectural Control Committee. The native trees and shrubs are one of Southview's major attractions, thus everything possible must be done to preserve the natural environment of the Real Property. The Architectural Control Committee may, at the lot owner's expense: (i) require replacement or substitute landscaping for trees or shrubs cut or removed without prior approval; and (ii) enter upon any lot and remove any tree infested with IPS beetles and/or other destructive insects or diseases if, within five (5) days after receiving notification from the Architectural Control Committee, such removal is not accomplished by the owner.

3.15 Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. No substance, animal thing or material shall be kept upon the land that will emit a foul or obnoxious odor, or cause any notice that might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding properties. All equipment for the storage or disposal of such waste materials shall be kept in a clean and sanitary condition and shall be enclosed so as not to be visible from any street or any other lot except when placed at the curbing on days regularly scheduled for the purpose of collection.

3.16 Windows. Prior to installation of any reflective materials for use on the windows of any building on the Real Property, approval and consent must be obtained from the Architectural Control Committee. No windows in the front or sides of any building shall at any time be covered with aluminum foil, bed sheets, newspapers, or any other like materials. Only proper drapes, blinds or shutters will be allowed.

3.17 Limitation of Vehicles. Motorcycles, mopeds, mini bikes, trail bikes and other vehicles shall not be operated on the Property except within the traveled areas of the private roads. All such vehicles shall be equipped with a muffler in good working order and in constant use to prevent excessive or unusual noise. No repair or maintenance work shall be performed on any motor vehicle or other piece of equipment, except wholly inside a garage. Disabled vehicles and equipment shall be stored in a garage or removed from the Property. Each owner shall provide adequate paved off-street parking spaces to accommodate the intended use of the owner's lot and shall not park or permit others to park on unpaved portions of the lot. Except for permitted construction purposes or limited temporary parking for loading or unloading, no vehicle in excess of 6500 pounds gross weight, no commercial vehicle, industrial equipment, recreational vehicle, boat, boat trailer, utility trailer, mounted or unmounted camper, motor home, travel trailer, or similar vehicle may be parked on any lot.

3.18 Care of Properties. All vacant lots shall be at all times kept free of rubbish and litter, as to present a tidy appearance. The yards and grounds in connection with all improved properties shall be at all times kept in a neat condition to an extent sufficient to maintain an appearance in keeping with that of typical improved properties in Southview. During

prolonged absence, the owner of each lot will arrange for the care of his lot during such absence.

3.19 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

3.20 Timeliness of Construction. Any building on the Real Property, the construction of which has started, shall be completed without delay within one (1) year after obtaining a building permit therefor, and all plans must be approved by the Architectural Control Committee, except when such delay is caused by act of God, strikes, actual inability of the owner to procure delivery of necessary materials, or by interference by other persons beyond the owner's control. Financial inability of the owner or his contractor to secure labor or materials or to discharge liens or attachments shall not be deemed a cause beyond his control.

3.21. Fire or Other Damage. In the event any home or structure is destroyed or partially destroyed by fire, act of God, or as a result of any other act or thing, said damage must be repaired and the improvement reconstructed within eighteen (18) months after such damage.

3.22 Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations two (2) feet above the roadways shall be permitted to remain on any corner lots within the triangular area formed by the street property lines and a line connecting them at points fifty (50) feet from the property lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

3.23 Exterior Lighting. The ordinances of the City of Prescott commonly known as the Outdoor Light Control Regulations (Regulations §§3-12-1 through 3-12-8), as amended from time to time by the City of Prescott, are hereby incorporated in this Declaration as though fully set forth herein. Notwithstanding the foregoing, all exterior light fixtures shall be subject to the approval of the Architectural Control Committee, which shall not approve any lighting that has an obtrusive appearance or casts a glare visible on any other property. Each home must have a light adjacent to the street and a mailbox adjacent to a city street both of which must be approved by the Architectural Control Committee.

3.24 Removal of Trees. Cutting down or removing any trees outside the perimeter of the foundation of the residence shall not be permitted. For each tree that is three inches in diameter, one foot above the ground, removed from the lot, a new tree (of suitable size and type as determined by the Architectural Control Committee) will be planted and will be part of the landscape plan submitted for approval to the Architectural Control Committee.

3.25 Noise Control. Any vibration, noise, sound or disturbance that is objectionable due to intermittence, beat, frequency, shrillness or loudness shall be prohibited. Without limiting the generality of the foregoing, no radio, stereo or other broadcast units of any kind and no amplifiers or loudspeakers of any kind shall be placed, allowed or maintained outside, or be directed to the outside of any residence or other improvement, or any residence or other improvement under construction. No construction activities shall be performed on Sundays.

3.26 Smoke Reduction. Smoke reduction or other emission control devices shall be required at the top of chimneys to reduce the amount of smoke from fireplaces or wood stoves, if economically available.

3.27 City Ordinances Incorporated. The ordinances of the City of Prescott commonly known as the Hillside Ordinance (Section 12-5-12) and the General Performance Standards (Section 12-5-13), as either may be amended from time to time by the City of Prescott, are hereby incorporated in this Declaration as though fully set forth herein. Notwithstanding the foregoing, to the extent that any rule, regulation or standard adopted by the Board or the Architectural Control Committee is more restrictive than such City Ordinances, the more restrictive rule or regulation shall prevail.

3.28 Building Permits. No owner shall be permitted to apply for a building permit for any improvement to be erected on any lot until the Architectural Control Committee has approved the plans for such improvement. The Architectural Control Committee shall have fourteen (14) days after plans for an improvement are submitted to it to accept or reject the plans. If the Architectural Control Committee does not reject such plans within said fourteen (14) day period, the plans shall be deemed approved.

4. ARCHITECTURAL CONTROL COMMITTEE

4.1a Architectural Control. No modification or improvement shall be commenced, erected or maintained within any portion of the Real Property unless and until detailed plans and specifications have first been submitted to and approved by the Architectural Control Committee established pursuant to section 4.2 below. The plans and specifications shall show the nature, size, height, shape and design of the proposed improvements; structural details; identity; type and quality of proposed materials; finishes; exterior colors; site location; grades and dwelling elevations as well as any other matters required by this Declaration or by the Architectural Standards and Procedures described in Section 4.4 below, and shall include a site plan of the building site proposed to be improved. Site plans shall show: (i) locations of all trees over three inches in trunk diameter one foot from the ground; (ii) trees to be removed to permit construction; (iii) locations of all easements; (iv) dimensions and bearings of the boundaries of the unit; (v) existing grades and grade changes; (vi) structure location within building envelope; and (vii) driveways and parking areas. A landscape design must be submitted with the building blueprints for approval. No modification or improvement shall be commenced, erected or maintained within the Real Property except in compliance with this Declaration and with the approved plans and specifications for such modification or improvement.

4.1b Architectural Control Committee. The Architectural Control Committee shall have full authority over the following matters: (i) improvement location as it relates to topography; (ii) removal of trees; (iii) design of, materials used in, and construction of, the improvements; and (iv) all restrictions set forth in this Declaration; provided, however, that the approval of the Architectural Control Committee shall not be unreasonably withheld.

4.2 Establishment of Committee. The right to approve or disapprove plans and specifications for modifications or improvements on the Real Property shall be vested in an Architectural Control Committee consisting of five (5) members who shall be appointed from time to time by the Association's Board. The members of the Architectural Control Committee need not be architects, owners or occupants of the Real Property and do not need to possess any special qualifications. Architectural Control Committee members shall serve for a term of one (1) year and may be reappointed. Such members may be removed by the Board at any time during their term of office with or without cause. Upon removal of a member of the Architectural Control Committee, the Board shall appoint a replacement member as soon as possible so that the Committee shall always consist of the number of members designated in this Section 4.2.

4.3 Meetings. The Architectural Control Committee shall hold regular meetings. A quorum for such meetings shall consist of two of the members and the affirmative vote of the greater of (i) two of the members or (ii) a majority of the members who are at the meeting shall be necessary for any decision of the Architectural Control Committee. The Architectural Control Committee shall keep and maintain a record of all actions taken at its meetings.

4.4 Architectural Standards and Procedures. The Architectural Control Committee shall promulgate written Architectural Standards and Procedures to be followed by owners in preparing and submitting plans and specifications and which will be used by the Architectural Control Committee in reviewing plans and specifications for proposed improvements, in rendering its decisions and otherwise performing its functions under this Declaration. The Architectural Standards and Procedures adopted from time to time by the Architectural Control Committee must be approved by the Board prior to their implementation and once approved by the Board shall be effective as Association Standards and Procedures. The decision of the Architectural Control Committee shall be final on all matters submitted to it pursuant to this Declaration. The Architectural Standards and Procedures shall not be inconsistent with the terms of this Declaration and if there are any inconsistencies, the provisions of this Declaration shall control.

4.5 Fee. The Architectural Control Committee may charge a reasonable processing fee to defray its costs in considering any requests for approvals submitted to it. The appropriate fee shall be paid at the time the request for approval is submitted. The fee structure as established from time to time shall be set forth in the Architectural Standards and Procedures.

4.6 Compensation / Delegations. Unless authorized by the Board, the members of the Architectural Control Committee shall not receive any compensation for services rendered. All members shall be entitled to

reimbursement (by the applicable owners) for reasonable expenses incurred by them in connection with the performance of any Architectural Control Committee function or duty. Professional consultants retained by the Architectural Control Committee shall be paid such compensation as the Architectural Control Committee determines. The Architectural Control Committee may delegate its plan review responsibilities, except final plan approval, to one or more of its members or to architectural consultants which it retains.

4.7 Non-Liability. Neither the Association, the Board members, any member of the Architectural Control Committee, or any agent, employee or other party providing architectural consulting services to the Architectural Control Committee shall be liable in damages to anyone submitting plans to it for approval or to any owner or other person by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans submitted to the Architectural Control Committee, and each owner or other person submitting plans agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Association, the Board members, or the members of the Architectural Control Committee, or their agents or employees, or parties providing architectural consulting services to the Architectural Control Committee, to recover damages as above described, including, without limitation, to recover damages arising out of or in connection with flooding, natural disaster or soil conditions. Approval by the Architectural Control Committee shall not be deemed to be a representation or warranty that the owner's plans and specifications or the actual construction of improvements are free from defects (design, construction or otherwise) or are free from hazards, such as flooding, natural disaster or adverse soil conditions or comply with applicable governmental ordinances or regulations, including, but not limited to, rezoning ordinances and local building codes. It shall be the sole responsibility of the owner or other person submitting plans to the Architectural Control Committee or performing any construction, to comply with all such ordinances, regulations and codes. Each owner understands that due to the location and condition of the owner's lot there may be certain inherent risks including, but not limited to, those related to flooding, soil conditions or natural disaster and agrees for himself, his family, guests and invitees (the "Releasing Parties") to release the Association, the Board members, the members of the Architectural Control Committee, their agents, employees and parties providing architectural consulting services to the Architectural Control Committee from any and all liability arising from any damage or injury to the person or property of the Releasing Parties rising out of or in connection with such hazards.

5. THE ASSOCIATION

5.1 General Duties and Powers. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the specific duties and powers specified in this Article.

5.2 General Duties of the Association. The Association, through its Board, shall have the duty and obligation to:

(a) Enforce the provisions of this declaration, the Articles, Bylaws, and Association Rules and Regulations by appropriate means and carry out the obligations of the Association hereunder.

(b) Maintain and otherwise manage the following.

(i) All easements and real property and all facilities, improvements and landscaping thereon in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association.

(ii) All personal property in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association.

(iii) All personal or real property that the Association is obligated to repair or maintain pursuant to this Declaration.

(c) Pay all real property taxes and other charges assessed to or payable by the Association.

(d) Obtain for the benefit of the Common Area, water, electric, refuse collections and other services.

(e) Establish a committee to govern issues set forth in this Declaration as being within the purview of the Architectural Control Committee as well as other issues the Board deems suitable for the Architectural Control Committee.

5.3 General Powers of the Association. The Association, through its Board, shall have the power but not the obligation to:

(a) Employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of residential developments similar to the Real Property, to perform all or any part of the duties and responsibilities of the Association.

(b) Acquire interests in real or personal property for offices or other facilities that may be necessary or convenient for the management of the Real Property, the administration of the affairs of the Association or for the benefit of the members.

(c) Borrow money, as may be needed, in connection with the discharge by the Association of its powers and duties.

(d) Provide maintenance of the Common Area, including drainage corridors, retention areas, street medians, and other maintenance items to the extent determined desirable by the Board.

(e) Negotiate and enter into contracts with institutional mortgagees and mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by mortgages within the Real Property.

5.4 Association Rules and Regulations. The Board shall be empowered to adopt, amend or repeal such rules and regulations as it deems reasonable and appropriate (the "Association Rules and Regulations"), binding upon all persons subject to this Declaration and governing the use and/or occupancy of the Common Area or any other part of the Real Property. The Association Rules and Regulations may include the establishment of a system of fines and penalties enforceable as special assessments. The Association Rules and Regulations shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Area; provided, however, that the Association Rules and Regulations may not discriminate among owners except as expressly provided or permitted herein, and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules and Regulations as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal of specific portions of the Association Rules and Regulations shall be available to each owner. Upon completion of the notice requirements, said Association Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the owners and all other persons having any interest in, or making any use of, the Real Property, whether or not actually received thereby. The Association Rules and Regulations, as adopted, amended or repealed, shall be available at the principal office of the Association to each owner or other person reasonably entitled thereto, upon request. In the event of any conflict between any provision of the Association Rules and Regulations and any provisions of this Declaration or the Articles or Bylaws, the provisions of the Association Rules and Regulations shall be deemed to be superseded by the provisions of this Declaration, the Articles or Bylaws to the extent of any such conflict.

5.5 Indemnification. To the fullest extent permitted by law, every director and every officer of the Association and every member of the Architectural Committee shall be indemnified by the Association, and every other person serving as an employee or direct agent of the Association, or on behalf of the Association as a member of any other committee or otherwise, may, in the discretion of the Board, be indemnified by the Association, against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of the Association or any settlement thereof, whether or not he is a director, officer or serving in such other specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith that such officer, director, or other person, did not act, fail to act or refuse to act willfully or with gross negligence or fraudulent or criminal intent in the performance of his duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such persons may be entitled at law or otherwise.

5.6 Non-Liability of Officials. To the fullest extent permitted by law, neither the Board, or any other committees of the Association nor any member thereof, nor any directors or officers of the Association, shall be liable to any owner, tenant, the Association or any other person for any

damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith, and which the Board, or such committees or persons reasonably believed to be within the scope of their respective duties.

5.7 Easements. In addition to the blanket easements granted in Article 8 hereof, the Association is authorized and empowered to grant upon, over, across, through or under real property owned or controlled by the Association such permits, licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private utility purposes, roadways or other purposes as may be reasonably necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and welfare of the owners and members, provided that any damage to a residence resulting from such grant shall be repaired by the Association at its expense.

5.8 Accounting. The Association, at all times, shall keep, or cause to be kept, true and correct records of account in accordance with generally accepted accounting principles which shall specify in reasonable detail all expenses incurred and funds accumulated from assessments or otherwise.

5.9 Records. The Association shall, upon reasonable written request and during reasonable business hours, make available for inspection by each owner the books, records and financial statements of the Association together with current copies, as amended from time to time, of this Declaration and the Articles, Bylaws and Association Rules and Regulations.

5.10 Delegation of Powers. The Association shall have the right, according to law, to delegate to committees, officers, employees or agents any of its duties and powers under this Declaration, the Articles, Bylaws and Association Rules and Regulations. No such delegation to a professional management company or otherwise shall relieve the Association of its obligation to perform any such delegated duty.

5.11 Emergency Powers. The Association or any person authorized by the Association may enter any lot in the event of any emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the owner as practicable and any damage caused thereby shall be repaired by the Association unless covered by insurance carried by the owner.

6. ASSOCIATION MEMBERS

6.1 Membership. Every owner shall be a member of the Association. The terms and provisions set forth in this Declaration, which are binding upon all owners, are not exclusive, as owners shall, in addition, be subject to the terms and provisions of the Articles, Bylaws and Association Rules and Regulations to the extent the provisions thereof are not in conflict with this Declaration. Membership of owners shall be appurtenant to and may not be separated from the interest of such owner in any residence. Ownership of a

lot or residence shall be the sole qualification for membership. A member's voting rights or privileges in the Common Area may be regulated or suspended as provided in this Declaration, the Bylaws or the Association Rules and Regulations. Not more than one membership shall exist based upon ownership of a single lot.

6.2 Transfer. The membership held by any owner shall not be transferred, pledged or alienated in any way, except that such membership shall automatically be transferred to the transferee of the interest of an owner in a lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring owner.

6.3 Voting Rights. All voting rights in the Association shall be vested in the members of the Association, each of whom shall be entitled to one (1) vote for each lot in which they hold the interest required for membership. When more than one person owns a portion of the interest in a lot required for membership, each such person shall be a member and 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. The vote for each lot shall 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 should be cast, they shall lose their right to vote on the matter in question. If any owner casts a vote 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 that more than one vote is cast for a particular lot, none of such votes shall be counted and such votes shall be deemed void.

6.4 Corporate or Trust Membership. In the event any lot is owned by a corporation, partnership, trust, or other association, the corporation, partnership, trust 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 chief executive officer, if any, of such corporation, partnership, trust or association, shall have the power to vote the membership, and if there is no chief executive officer, then the Board or general partner of such corporation, partnership, trust or association shall designate who shall have the power to vote the membership.

6.5 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 or Association Rules and Regulations 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. In the event any owner is in default of any non-monetary obligation of this Declaration, the Articles, Bylaws or Association Rules and Regulations, and remains in default for more than ten (10) days after notice from the Association to cure same, said member's right to vote shall be suspended for a period not to exceed sixty (60) days.

7. COVENANT FOR ASSESSMENTS

7.1 Creation of Lien and Personal Obligation. Each owner, by acceptance of a deed or other conveyance creating in such owner the interest required to be deemed an owner, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: annual assessments, supplemental assessments, and special assessments and other such assessments and other fees to be fixed, established and collected from time to time as provided in this Declaration. Such assessments and fees, together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with such interest, late charges, costs and attorneys' fees, shall also be the personal obligation of the owner of such lot at the time when the assessment becomes due.

7.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for (a) the operation and management of the association (b) payment of expenses in connection with the upkeep, maintenance and improvement of the Common Area and such portion of the lots and such improvements located thereon as the Association is obligated to maintain under the provisions of the Declaration and (c) promotion of the recreation, health, safety and welfare of the owners and residents of lots within the Real Property.

7.3 Maximum Annual Assessments.

(a) Until January 1, 2005, the maximum annual assessment for each lot shall be Three Hundred Dollars ($300.00) per year.

(b) The Board may, without a vote of the membership of the Association, increase the maximum annual assessment during each fiscal year of the Association by five percent an amount not to exceed five percent (5%).

(c) The maximum annual assessment may be increased by an amount greater than five percent (5%) in any fiscal year only with the approval of members representing at least two-thirds (2/3) of the votes entitled to be cast by members who are voting in person or by proxy at a meeting duly called for such purpose.

(d) The Board may fix the annual assessment at any amount not in excess of the maximum annual assessment.

7.4 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 members, it shall determine the approximate amount of such inadequacies for such fiscal year and prepare a supplemental budget and may 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. No supplemental assessment shall be levied by the Board until such assessment has been approved by members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by members who are voting in person or by proxy at a meeting duly called for such purpose.

7.5 Special Assessments. In addition to the annual and supplemental assessments, the Association may levy, in any assessment year, a special assessment applicable only to that fiscal year for the purpose of defraying, in whole or in part, the cost 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. No special assessment shall be levied by the Board until such assessment has been approved by members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by members who are voting in person or by proxy at a meeting duly called for such purpose.

7.6 Notice and Quorum for any action on Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Sections 7.3, 7.4 or 7.5 shall be sent to all members 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 members or of proxies entitled to cast sixty percent (60%) of all the votes of members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

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

7.8 Date of Commencement of Assessments Due Dates. The annual assessments provided for herein shall commence on the first day of January. The Board shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of the fiscal year, and the annual assessment for the current fiscal year shall remain in effect until the thirtieth day after the Board fixes the annual assessment for the upcoming fiscal year. Written notice of the annual assessment shall be sent to every owner subject thereto prior to the commencement of the fiscal year. Failure to give such notice shall not affect the validity or enforceability of the assessments as fixed by the Board. The Board may require that the annual, supplemental or special assessments be paid in installments. Unless otherwise specified by the Board, special and supplemental assessments shall be due thirty (30) days after they are levied by the Association and notice of the assessment is sent to each owner.

7.9 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 be deemed delinquent and shall bear interest from the due date at the rate of the lesser of 14% per annum and the highest rate permitted by law. Each owner shall also pay a late charge of Ten Dollars

($10.00) for each delinquent assessment or installment of an assessment. 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 (a) the name of the delinquent owner as shown on the records of the Association, (b) the legal description, street address and number of the lot against which the claim of lien is made, (c) the amount claimed as of the date of the recording of the notice including interest, collection costs, late charges, lien recording fees and attorneys' fees, and (d) the name and address of the Association. Subject to applicable laws the Association's lien shall have priority over all liens or claims except for tax liens for real property taxes on the lot, assessments on the lot in favor of any municipal or other governmental body and the liens which are specifically described in Section 7.10 of this Declaration.

Before recording a lien against any lot, the Association shall present to the defaulting owner a written demand for payment. Said demand shall 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, late charges and 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, late charges, 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 (such action may be brought without waiving any lien securing any such delinquent assessments) and (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 at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all lots purchased at such sale.

7.10 Subordination of the Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage encumbering the 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 non-judicial 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 or the owner thereof from liability for any assessments thereafter becoming due or from the lien thereof.

7.11 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 this Declaration, the Articles, Bylaws or Association Rules and Regulations by

waiver or non-use of any of the Common Area facilities or by the abandonment of his lot.

7.12 Unallocated Tax Assessments. In the event that any taxes are assessed against the personal property of the Association, said taxes shall be included in the assessments made under the provisions of this Article, and, if necessary, a supplemental or special assessment may be levied against the lots in an amount equal to said taxes, to be paid in two installments, each of which shall be due thirty (30) days prior to the due date of each installment of taxes.

7.13 Certificate of Payment. The Association shall, within fifteen (15) days of a request from an owner, furnish to such owner a certificate in writing signed by an officer of the Association setting forth whether the assessments on a particular lot have been paid and the amount of any unpaid assessments. The Association may charge the owner requesting a certificate a reasonable fee (as established by the Board) for each such certificate. Such certificate shall be conclusive evidence of payment of any assessment described in the certificate as having been paid.

7.14 Maintenance of Reserve Fund. Out of the annual assessments, the Association shall establish and maintain a 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 the provisions of this Declaration, the Articles, Bylaws or Association Rules and Regulations.

7.15 Homestead Waiver. Each owner, to the extent permitted by law by the acceptance of a deed or other conveyance of a lot, waives, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of Arizona now in effect, or in effect from time to time hereafter.

8. EASEMENTS

8.1 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, sewers, gas, telephones, electricity and a cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility to erect and maintain any necessary facilities and equipment on the Common Area. This easement shall in no way affect any other recorded easements on the Common Area.

8.2 Easements for Ingress and Egress. Easements for ingress and egress are hereby reserved to the Association, the owners, and their families, 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.

8.3 Right of Entry. During reasonable hours, any member of the Architectural Control Committee, any member of the Board or any authorized representative of them, shall have the right to enter upon and inspect any land surrounding any residential structure on the Real Property, excluding the interior of any residence located thereon, for the purpose of making inspections to determine whether the provisions of this Declaration and the Association Rules and Regulations are being complied with by the owner of each lot.

8.4 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 residences which the Association is obligated to maintain under Article 9 of this Declaration.

9. MAINTENANCE

9.1 Maintenance of Common Area by Association. The Association shall be responsible for the maintenance, repair and replacement of the Common Area and may, without any approval by the owners, do the following as needed:

(a) Reconstruct, repair, replace or refinish any improvement or portion thereof upon any such 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);

(b) Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway or parking 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 proper 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 beauty thereof in accordance with the general purposes specified in this Declaration.

(f) Maintain paved private driveways, including all areas originally burdened with easements for ingress, egress and public utilities, originally installed by the Declarant as defined in the Original Declaration. Notwithstanding the foregoing, if there is damage to a water line, sewer line or other utility facility located within an area burdened with an easement for ingress, egress and public utilities, the person causing the damage shall be responsible for the repair thereof, and the Association shall enforce such obligation. If the person responsible for the damage cannot be identified, then the Association shall be responsible for the repair thereof.

9.2 Maintenance of Lots by Owners. Each owner of a lot shall be solely responsible for the maintenance of all portions of his lot. The owner of each lot shall at all times perform his obligations under this Section so that the land and improvements comprising his lot shall be in good condition and repair. Such obligations of owner shall include keeping all shrubs, trees, grass, plantings and landscaping of every kind properly cultivated and free of trash, weeds and other unsightly material. All maintenance of the exterior of the residence, including without limitation walls, fences and roofs, shall be accomplished in accordance with the Association Rules and Regulations and this Declaration and, if required by the Association Rules and Regulations or this Declaration, only after approval of the Architectural Control Committee.

9.3 Damage or Destruction by Owners. No owner shall in any way (a) damage or destroy any Common Area or (b) 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 shall be paid by said owner to the Association upon its demand to the extent that the owner is liable therefor under Arizona law and if permitted by Arizona law, such amounts shall be a lien on any lot(s) owned by such owner. If permitted by Arizona law, the Association may enforce collection of such amounts in the same manner and to the same extent as provided in Article 7 of this Declaration for the collection and enforcement of assessments

9.4 Nonperformance by Owners. If any owner fails to maintain any portion of the land and improvements comprising his residence which he is obligated to maintain under the provisions of this Declaration, the Articles, Bylaws or Association Rules and Regulations, then 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 such owner upon demand from the Association, and if permitted by Arizona law, such amounts shall be a lien upon the owner's lot. If permitted by Arizona law, the Association may enforce collection of such amounts in the same manner and to the same extent as provided in Article 7 of this Declaration for the collection and enforcement of assessments.

9.5 Total or Partial Destruction. If any residence is totally or partially destroyed, the owner shall either rebuild the structure in a timely manner or demolish the structure and remove the debris from the property in a timely manner. If the owner fails to comply with this Section, the Association may undertake the work on the owner's behalf and charge the owner therefor. If permitted by Arizona law, the Association may enforce collection of such amounts in the same manner and to the same extent as provided in Article 7 of this Declaration for the collection and enforcement of assessments.

9.6 Payment of Utility Charges. Each lot shall be separately metered for water, sewer and electrical service, and all charges for such service to the lot shall be the sole obligation and responsibility of the owner of each lot. All bills for water, sewer and electrical service to the Common Area shall be billed to the Association, and the Association shall be responsible for the payment of such charges. The cost of water, sewer and electrical

service to the Common Area shall be a common expense of the Association and shall be included in the budget of the Association.

9.7 Perimeter/Boundary Fences. The following provisions govern the rights and duties of owners of lots with respect to perimeter/boundary fences placed on the perimeter/boundary line between separate lots with the prior written approval of the Architectural Control Committee:

(a) 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 perimeter/boundary fences shall be applied.

(b) The cost of reasonable repair and maintenance of a perimeter/boundary fence 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 require a larger contribution from the adjoining owner under any rule of law regarding liability for negligent or willful acts or omissions.

(c) In the event any perimeter/boundary fence 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 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.

(d) Notwithstanding any other provision of this section, an owner who, by his negligent or willful act, causes any perimeter/boundary fence 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 Section 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 regular regulations or ordinances, any owner proposing to modify, make additions to or rebuild a perimeter/boundary fence shall first obtain the written consent of the adjoining owner and the Architectural Control Committee.

(g) In the event of a dispute between owners with respect to the repair or the rebuilding of a perimeter/boundary fence or with respect to sharing of the cost thereof, then, upon written request of both of such owners addressed to the Board, the matter shall be submitted to arbitration by the Board under such rules as made from time to time to be adopted by the Board. The decision of the Board shall be final and conclusive.

(h) The provisions of this section shall be binding upon the heirs and assigns of any owners, but no person shall be liable for any act or omission respecting the perimeter/boundary fence except such as took place while he was an owner.

(i) In the event any perimeter/boundary fence encroaches upon a lot or the Common Area, a valid easement for such encroachment and for the maintenance of the boundary fence shall and does exist in favor of the owners of the lots which share such perimeter/boundary fence.

9.8 Maintenance of Walls other than Perimeter/Boundary Fences.

(a) Walls or fences (other than perimeter/boundary fences) located on a lot shall be maintained, repaired and replaced by the owner of the lot.

(b) Any wall or fence which is placed on the perimeter/boundary line between a lot and the Common Area with the prior consent of the Architectural Control Committee shall be maintained, repaired and replaced by the owner of the lot except that the Association shall be responsible for the repair and maintenance of the side of the wall or fence which faces the Common Area.

10. INSURANCE

10.1 Scope of Coverage. The Association shall maintain, to the extent reasonably available, the following insurance coverage:

(a) Property insurance on the Common Area insuring against all risk of direct physical loss, insured in an amount equal to the maximum insurable replacement value of the Common Area, as determined by the Board. The total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy;

(b) Comprehensive general liability insurance, including medical payments 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 coverage with cost liability endorsements to cover liabilities of the owners as a group to an owner.

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

(d) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the owners.

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

(i) That there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to owners and members of their households.

(ii) That no act or omission of any owner (unless acting within the scope of his authority on behalf of the Association) will void the policy or be a condition to recovery on the policy.

(iii) That the coverage afforded by such policy shall not be brought into contribution or peroration with any insurance which may be purchased by owners or their mortgagees.

(iv) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an owner because of the negligent acts of the Association or other owners.

(v) Statement of the name of the insured as "Southview Trails Community Association, Inc.".

(vi) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

(f) "Agreed Amount" and "Inflation Guard" endorsements.

10.2 Insurance on Lots or Residences. The Association shall not be obligated to obtain property insurance, liability insurance, flood insurance or any other type of insurance covering the lots, residences or the improvements located thereon. The procurement and maintenance of insurance on each lot or residence, including all landscaping on such lot or residence shall be the sole obligation of the owner thereof. Each owner shall also be responsible for obtaining all liability insurance, personal property insurance and any other type of insurance to the extent desired by such owner.

10.3 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 or mortgagee. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each owner and each mortgagee to whom certificates of insurance have been issued.

10.4 Fidelity Bonds. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, without limitation, any management agent to whom the Association has delegated some or all of the responsibility for the handling of such funds. The total amount of fidelity bond coverage shall be based upon the best business judgment of the Board, and shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. In no event shall the aggregate amount of such fidelity bonds be less than a sum equal to three months of annual assessments on all residences plus adequate reserve funds. Fidelity bonds obtained by the Association must also:

(a) Name the Association as an obligee.

(b) Contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions.

(c) Provide that they may not be cancelled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association and each First Mortgagee.

10.5 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to sections 10.1 and 10.4 of this Article shall be included in the budget of the Association and shall be paid by the Association.

10.6 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.

10.7 Annual Insurance Review. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Common Area in light of increased construction costs, inflation, practice in Yavapai County, Arizona, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the owners and of the Association. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

11. EMINENT DOMAIN

11.1 Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation of all or any portion of the Common Area.

11.2 Representation by Board in Condemnation Proceedings. In the event of a threatened taking of all or any portion of the Common Area, the members hereby appoint the Board and such persons as the Board may delegate to represent all of the members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemners in lieu of engaging in a condemnation action.

11.3 Inverse Condemnation. The Board is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

11.4 Award for Common Area. Any awards received on account of a taking of the Common Area shall be paid to the Association. The Board may in its

sole discretion retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the members. The rights of an owner and the mortgagee of his residence as to any pro rata distribution shall be governed by the provisions of the mortgage encumbering such residence.

12. RIGHTS OF LENDERS

12.1 Filing Notice; Notices and Approvals. A mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to mortgagees unless and until such mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such mortgagee is the holder of a mortgage encumbering a lot within the Real Property. Such notice need not state which lot or lots are encumbered by such mortgage, but shall state whether such mortgagee is a first mortgagee. Wherever the approval of all or a specified percentage of mortgagees is required pursuant to this Declaration, it shall be deemed to mean the vote or approval of all or a specified percentage only of those mortgagees which have delivered such notice to the Board. Notwithstanding the foregoing, if any right of a mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this section, a mortgagee must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section, in order to be entitled to such right. Except as provided in this section, a mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of mortgages over the lien of assessments levied by the Association hereunder, shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a mortgagee shall remain effective without any further action by such mortgagee for so long as the facts set forth in such notice or request remain unchanged.

12.2 Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions herein, nor the enforcement of any lien provisions herein, shall affect, impair, defeat or render invalid the lien or charge of any mortgage made in good faith and for value encumbering any residence, but all of said covenants, conditions and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a lot except as otherwise provided in this Article.

12.3 Curing Defaults. A mortgagee or the immediate transferee of such mortgagee, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the provisions of this Declaration which is noncurable or of a type which is not practical or feasible to cure. The determination of the Board made in good faith as to whether a breach is noncurable or not practical or feasible to cure shall be final and binding on all mortgagees.

12.4 Resale. It is intended that any loan to facilitate the resale of any lot after judicial foreclosure, deed in lieu of foreclosure or trustee's

sale is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other mortgages.

12.5 Relationship with Assessment Liens.

(a) The lien provided for in the Article hereof entitled "Covenant for Assessments" for the payment of assessments shall be subordinate to the lien of any mortgage which was recorded prior to the date any such assessment becomes due.

(b) If any lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a mortgage: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage; and (ii) the foreclosure of the lien of said mortgage, the acceptance of a deed in lieu of foreclosure of the mortgage or sale under a power of sale included in such mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that accrue subsequent to the Events of Foreclosure.

(c) Any mortgagee who obtains title to a lot by reason of any of the Events of Foreclosure, or any purchaser at a private or judicial foreclosure sale, shall take title to such lot free of any lien or claim for unpaid assessments against such lot which accrue prior to the time such mortgagee or purchaser takes title to such lot, except for liens or claims for a share of such assessments resulting from a pro rata reallocation of such assessments to all lots within the Real Property.

(d) Nothing in this section shall be construed to release any owner from his obligations to pay for any assessment levied pursuant to this Declaration.

12.6 Approval of Institutional Mortgagees. Except upon the prior written approval of at least seventy-five percent (75%) of institutional mortgagees holding first mortgages on the Real Property, based on one (1) vote for each first mortgage held, neither the Association nor the members shall be entitled to do any of the following:

(a) Amend a material provision of this Declaration, the Bylaws or the Articles of the Association, and without limiting the generality of the foregoing, the provisions of the Article hereof entitled, "Insurance", this Article, any other rights granted specifically to mortgagees pursuant to any other provision of this Declaration, or any provision of this Declaration, the Articles, or Bylaws which is a requirement of FNMA, GNMA, FHLMC, FHA or VA shall be deemed to be material.

(b) Abandon, partition, sell, alienate, subdivide, release, transfer, hypothecate or otherwise encumber the Common Area. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area shall not require such approval.

12.7 Other Rights of Institutional Mortgagees. Any institutional mortgagee or its mortgage servicing contractor, shall, upon written request to the Association, be entitled to:

(a) Inspect the books and records of the Association during normal business hours.

(b) Receive the annual financial statement of the Association ninety (90) days following the end of the Association's fiscal year.

(c) Receive written notice of all annual and special meetings of the members or of the Board, and institutional mortgagees shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give an institutional mortgagee the right to call a meeting of the Board or of the members for any purpose or to vote at any such meeting.

(d) Receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration by the owner whose lot is encumbered by such institutional mortgagee's mortgage, which default has not been cured within sixty (60) days of a request therefor by the Association; provided, however, the Association shall only be obligated to provide such notice to institutional mortgagees who have delivered a written request therefor to the Association specifying the lot or lots to which such request relates.

12.8 Mortgagees Furnishing Information. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any mortgage.

12.9 Right of First Refusal. In the event this Declaration is amended to provide for any right of first refusal to purchase or lease a lot in the Association, a mortgagee who comes in possession of a lot pursuant to a judicial foreclosure, a deed in lieu of foreclosure or a trustee's sale shall be exempt therefrom. In addition, conveyances to and from third party foreclosure purchasers and mortgage insurers and guarantors shall also be exempt.

12.10 Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

12.11 Notice of Destruction or Taking. In the event that the Common Area or any portion thereof is substantially damaged or is made the subject of any condemnation proceeding in eminent domain or is otherwise sought to be acquired by a condemning authority, the Board shall promptly notify any institutional mortgagee affected by such destruction, taking or threatened taking. As used herein, "substantially damaged" or "taking" shall mean damage or taking exceeding Ten Thousand Dollars ($10,000.00). If requested in writing by an institutional mortgagee, the Association shall evidence its

obligations under this Section in a written agreement in favor of such institutional mortgagee.

12.12 Payment of Taxes or Premiums By Institutional Mortgagees Institutional mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, unless such taxes or charges are separately assessed against the owners, in which case the rights of institutional mortgagees shall be governed by the provisions of their mortgages. Institutional mortgagees may, jointly or singly, also pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area, and institutional mortgagees making such payments shall be owed immediate reimbursement therefor by the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of any institutional mortgagee that requests the same to be executed by the Association.

13. GENERAL PROVISIONS

13.1 Enforcement. The Association or any owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants and reservations, now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violation. The Association or any owner shall also have the right to enforce, by proceedings at law or in equity, the provisions of the Association's Articles, Bylaws or the Association Rules and Regulations and any amendments thereto with respect to Assessment liens or any other liens or charges. The Association shall have the exclusive right to the enforcement thereof.

13.2 No Waiver. Failure by the Association or by any member to enforce any covenant, condition, or restriction herein contained, or in the Articles, Bylaws or Association Rules and Regulations in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any such future breach of the same or any other covenant, condition or restriction.

13.3 Cumulative Remedies. All rights, options and remedies of the Association, the owners or mortgagees under this Declaration are cumulative, and not one of them shall be exclusive of any other. The Association, the owners and the mortgagees shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

13.4 Severability. Invalidation of any one or a portion of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

13.5 Violations and Nuisance. Every act or omission where by any provision of the Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated whether or not the relief sought is for negative or affirmative action, by the Association or any owner.

13.6 Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within the Real Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

13.7 Joint and Several Liability. In the case of joint ownership of a residence, the liabilities and obligations of each of the joint owners set forth in or imposed by this Declaration shall be joint and several.

13.8 Attorneys' Fees. In the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration or to collect any assessments or other amounts due from an owner or to enforce compliance with or recover damages for any violation or noncompliance with this Declaration, the Articles, Bylaws, and/or Association Rules and Regulations, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees incurred in any such action.

13.9 Binding Effect. By acceptance of a deed or by acquiring any ownership interest in any of the property subject to this Declaration, each person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Real Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future owners, assigns and grantees, covenants and agrees that the interest of each owner by virtue of his purchase of a residence within the Real Property (specifically, fee ownership of the residence including all rights and easements granted to him by this Declaration and by the deed of conveyance) and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective residence even though the description in the instrument of conveyance or encumbrance may refer only to the residence.

13.10 Notices. Any notice to be given under the provisions of this Declaration shall be in writing and may be delivered as follows:

(a) Notice to an owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such owner's residence. In the case of co-owners, any such notice may be delivered or sent to any one of the co-owners on behalf of all co-owners and shall be deemed delivered to all such co-owners.

(b) Notice to the Association shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, addressed as follows:

Southview Trails Community Association, Inc.
Attn: Jim Atkinson
1550 Plaza West Drive, Suite 400
Prescott, AZ 86303

Any of the above notices so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.

13.11 Leases. Any agreement for the leasing or rental of a residence (hereinafter in this section referred to as a "lease") shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, the Association Rules and Regulations, and any applicable agreements between the Association and any federal agency. Said lease shall further provide that any failure by the tenant thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. Any owner who shall lease his residence shall be responsible for assuring compliance by such owner's tenant with this Declaration, the Articles, the Bylaws and the Association Rules and Regulations, and shall be jointly and severally responsible for any violations thereof by his tenant. No residence shall be leased for transient or hotel purposes, which shall be defined as rental for any period less than thirty (30) days, or any rental whatsoever, if the occupants of the residence are provided customary hotel services such as room service for food and beverage, maid service, furnishing laundry and linen and bellboy service. No residence shall be leased to more than a single family at any point in time.

13.12 Term. The covenants and restrictions of this Declaration shall run with and bind the Real Property for a term of thirty (30) years from the date this Declaration is recorded. Thereafter, they shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then members or their proxies casting a majority of the total votes cast at an election held for such purpose within *six* (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

13.13 Amendments. Subject to the other provisions of this Declaration, this Declaration may be amended by the affirmative written assent or vote of not less than two-thirds (2/3) of the voting power of the members. An amendment or modification that requires the vote and written assent of the members as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment or modification has been approved as hereinabove provided, and when recorded in the official records of Yavapai County Arizona. Notwithstanding the foregoing, Section 9.1(f) of this Declaration may not be deleted or amended in any respect without the written consent of all lot owners who are then using any paved private driveway, which will be affected by such deletion or amendment.

13.14 Survival of Liability. The termination of membership in the Association shall not relieve or release any such former member from any liability or obligation incurred under or in any way connected with the Association during the period of such membership, or impair any rights or remedies which the Association may have against such former member arising out of, or in any way connected with such membership and the covenants and obligations incident thereto

13.15 Statutory Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws or Association Rules and Regulations, the provisions of this Declaration shall prevail.

Pursuant to section 13.14 of the Original Declaration, the undersigned officers of the Association hereby execute this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Southview as of the date first set forth above and hereby certify that this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Southview has been approved by the affirmative written assent or vote of not less than two-thirds (2/3rds) of the voting power of the members of the Association.

Southview Trails Community
Association, Inc.

By: Ronald L Gould
Its: President

By: Patricia Gebhardt
Its: Secretary

STATE OF ARIZONA)
) ss
COUNTY OF YAVAPAI)

On this 18th day of March 2005, before me the undersigned Notary Public, personally appeared Ronald Gould, known to me (or satisfactorily proven) to be the person whose name is above subscribed, who acknowledged to me that (s)he is the President of Southview Trails Community Association, Inc., an Arizona non-profit corporation, and that (s)he executed the foregoing instrument in such capacity on behalf of said company, being so authorized to do so.

Paula R. Witter
Notary Public

My Commission Expires:
August 31, 2008

"OFFICIAL SEAL"
Paula R. Witter
Notary Public-Arizona
Yavapai County
My Commission Expires 8/31/2008

STATE OF ARIZONA)
) ss
COUNTY OF YAVAPAI)

On this 18th day of March 2005, before me the undersigned Notary Public, personally appeared Patricia Gebhardt, known to me (or satisfactorily proven) to be the person whose name is above subscribed, who acknowledged to me that (s)he is the Secretary of Southview Trails Community Association, Inc., an Arizona non-profit corporation, and that (s)he executed the foregoing instrument in such capacity on behalf of said company, being so authorized to do so.

Paula R. Witter
Notary Public

My Commission Expires:
August 31, 2008

"OFFICIAL SEAL"
Paula R. Witter
Notary Public-Arizona
Yavapai County
My Commission Expires 8/31/2008