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# Deschutes County Clerk

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Francis Hanson & Martin  
1148 NW Hill St.  
Bend, OR 97701

**FIRST RESTATED DECLARATION OF  
ARROWOOD SUMMIT AT SKYLINER SUMMIT AT BROKEN TOP**

27 The Declaration of Arrowood Summit at Skyliner Summit at Broken Top, executed by Arrowood Summit Partners, LLC, an Oregon Limited Liability Company (the Declarant) by and through John P. Lietz, its President and Managing Member, dated March 6, 2002, and recorded in the Deschutes County Official Records at Book 2002 page 12972 et seq. (the "Original Declaration"), affecting the property and planned community described therein, is hereby amended and restated in its entirety to read as follows:

**RECITALS**

A. Declarant was the owner of that certain real property located in Deschutes County, Oregon, and described on Exhibit A attached hereto, a planned unit townhome development known as Arrowood Summit (the "Property").

B. Declarant subjected the Property to the Declaration of Master Covenants, Conditions, and Restrictions for Skyliner Summit at Broken Top dated June 14, 2001, and recorded on June 28, 2001, at Book 2001, Page 30940 and Bylaws of the Master Association dated June 14, 2001, and recorded on June 28, 2001, at Book 2001, page 31071. Each member of Arrowood Summit Homeowners' Association is also a member of the Skyliner Summit at Broken Top Homeowners' Association.

C. Declarant conveyed the real property and improvements comprising the Property, subject to certain easements, protective covenants, conditions, restrictions, reservations, liens, and charges as set forth in the Original Declaration referred to above, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property, and all of which run with the land with respect to the Property and shall be binding upon all parties having or acquiring any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

D. It was the further intention of the Declarant to sell and convey residential Lots to the Owners, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges, and equitable servitudes between Declarant and such Owners that are set forth in the Original Declaration and that are intended to be in furtherance of a general plan for the subdivision, development, sale, and use of the Property as a Planned Community as that term is defined in ORS 94.550 et seq.

E. On October 1, 2006, Owners representing at least 75 percent of the total Voting Membership for Arrowood Summit, as specified in the Original Declaration, voted by written ballot to amend and restate the Original Declaration, all in accordance with the procedures for amendment set forth in the Original Declaration

and in ORS 94.590. It was the intention of the Owners to replace the Original Declaration, in its entirety, with the recordation of this First Restated Declaration (hereinafter, "the Declaration" or "this Declaration"). The Owners' action to amend and restate the Original Declaration as set forth herein and the fact that the requisite percentage of affirmative votes required in the Original Declaration was achieved, is attested by the execution of this Declaration by the President and Secretary of the Association, as required by ORS 94.590(2) and (3). As so amended and restated, the easements, covenants, restrictions, and conditions set forth herein shall constitute equitable servitudes and covenants that run with the land comprising the Property and shall be binding on all parties having or acquiring any right, title, or interest in the Property or any portion thereof, and shall inure to the benefit of each Owner thereof. The Board of Directors of the Association thereafter adopted a resolution in accordance with ORS 94.590(6) to prepare and have recorded this Restated Declaration without the further approval of the Owners to codify the amendments approved by the Owners as set forth herein.

## ARTICLE 1

### DEFINITIONS

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1 "Association" means Arrowood Summit Homeowners' Association, an Oregon nonprofit corporation, and its successors and assigns.

1.2 "Arrowood Summit" means Property designated in Section 2.3 of this Declaration which constitutes a Neighborhood as defined in the Master Declaration.

1.3 "Building" means one of ten (10) townhome buildings situated on lots 31 through 50, Arrowood Summit at Skyliner Summit at Broken Top.

1.4 "Declarant" means Arrowood Summit Partners LLC, an Oregon limited liability company, any person who succeeds to any special Declarant right and to whom all of the Declarant's ownership interest in Arrowood Summit is transferred, or any person, other than Owners, to whom the Declarant has transferred, for purposes of resale, all of Declarant's ownership interest in Arrowood Summit.

1.5 "Improvement" means every temporary or permanent structure or improvement of any kind, including but not limited to a house, fence, wall, driveway, walkway, swimming pool, storage shelter, or other product of construction efforts on or in respect to any property within Arrowood Summit, including landscaping, and every alteration, painting, or reconstruction thereof.

## 2 – FIRST RESTATED DECLARATION OF ARROWOOD SUMMIT AT SKYLINER SUMMIT AT BROKEN TOP

1.6 "Living Unit" means one of the twenty (20) Living Units included in the Buildings including all elements of the structure which includes, without limitation, the foundation, footings, structural elements, roof, and siding.

1.7 "Lot" means one of the twenty (20) platted or legally partitioned lots within Arrowood Summit.

1.8 "Master Association" means the Skyliner Summit at Broken Top Homeowners' Association formed pursuant to the Master Declaration.

1.9 "Master Declaration" means the Master Declaration of Covenants, Conditions, and Restrictions for Skyliner Summit at Broken Top dated June 14, 2001, as amended and supplemented from time to time recorded June 28, 2001, at Book 2001, Page 30940.

1.10 "Mortgage" means a mortgage, trust deed, or land sales contract; "mortgagee" means a mortgagee, beneficiary of a trust deed, or vendor under a land sales contract; and "mortgagor" means a mortgagor, grantor of a trust deed, or vendee under a land sales contract.

1.11 "Owner" means the person or persons, including Declarant, owning any Lot, including any vendee under a recorded land sales contract to whom possession has passed, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Living Unit, including any vendor under a recorded land sales contract who has given up possession. The rights, obligations, and other status of being an Owner commence upon acquisition of the ownership of a Living Unit and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

## ARTICLE 2

### NAME; CLASSIFICATION; AND PROPERTY SUBJECT TO THIS DECLARATION

2.1 Name. The name of the Association is **Arrowood Summit Homeowners' Association**.

2.2 Classified. The classification of this planned community development is **Class I**.

2.3 Property Description. Declarant hereby declares that all of the real property described on Exhibit A attached hereto, is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied, and improved subject to this Declaration. The development includes twenty (20) Living Units.

## ARTICLE 3

### 3 – FIRST RESTATED DECLARATION OF ARROWOOD SUMMIT AT SKYLINER SUMMIT AT BROKEN TOP

## PARTY WALLS, INSURANCE, AND DAMAGE OR DESTRUCTION

### 3.1 Party Walls.

(a) General Rules of Law to Apply. Each wall that divides two Living Units, and which is placed on the divided line between the Lots, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of repair and maintenance of a party wall shall be shared equally by the Owners whose Living Units are divided by such wall.

(c) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, the provisions of Article 9 of this Declaration shall apply with regard to repair or reconstruction of such wall.

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

(e) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

3.2 Property Insurance. The Association, through the Board of Directors, shall obtain and maintain at all times and shall pay for out of operating assessments property insurance including, but not limited to, fire, extended coverage, vandalism, and malicious mischief covering both the Common Areas and the Living Units, including fixtures, equipment, and other property which would ordinarily be required to be covered by a holder of a first mortgage.

There may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any insurance trust agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance.

Each Owner appoints any Insurance Trustee or substitute Insurance Trustee designated by the Association, as an attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other

acts necessary to accomplish such purpose. The Association or any Insurance Trustee shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for Owners and their first mortgage holders, as their interests may appear.

3.3 The Association, by and through the Board of Directors, shall obtain and keep in effect at all times insurance coverage as specified in the Bylaws.

3.4 The Board of Directors shall not be responsible for procuring fire and extended coverage insurance covering the furniture, equipment, or contents located in the individual units.

3.5 The insurance obtained by the Association, by and through the Board of Directors, as required by this Article 3 shall be a common expense.

#### ARTICLE 4

[Article 4 of the Original Declaration is deleted in its entirety.]

#### ARTICLE 5

##### PROPERTY RIGHTS IN LIVING UNITS

5.1 Use and Occupancy. Except as otherwise expressly provided in this Declaration, the Owner of a Living Unit in Arrowood Summit shall be entitled to the exclusive use and benefit of such Living Unit.

5.2. Easements Reserved. In addition to any easements shown on the recorded plats, Declarant hereby reserves the following easements for the benefit of Declarant and the Association: n/a.

(a) Exterior and Landscaping Maintenance. The Association, its managers, and contractors shall have the right to enter upon each Lot and Living Unit to the extent reasonably necessary for maintenance and repair of landscaping on the Lots and exterior portions of the Living Units.

(b) Right of Entry. Any representative of the Association authorized by it may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot if such representative reasonably determines that an emergency exists or for the purpose of determining whether or not the use of and/or Improvements on such Lot are then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

#### ARTICLE 6

5 – FIRST RESTATED DECLARATION OF ARROWOOD SUMMIT AT SKYLINER  
SUMMIT AT BROKEN TOP

## RESTRICTIONS ON USE OF LIVING UNITS

6.1 Occupancy. No Owner shall occupy, use, or permit his Lot or Living Unit, or any part thereof, to be used in any manner that would violate the terms of the Master Declaration.

6.2 Master Declaration. Each Owner shall at all times comply with all provisions of the Master Declaration.

## ARTICLE 7

### ARCHITECTURAL REVIEW

7.1 Composition. The Architectural Review Board shall consist of two or more individuals and shall be selected by the Declarant until the Declarant is no longer an Owner. Afterwards, the Board of Directors shall serve also as an Architectural Review Board. A quorum for the Architectural Review Board action shall be a majority of its members.

7.2 Duties. It shall be the duty of the Architectural Review Board to regulate the external design, appearance, location, and maintenance of all the Property and of improvements thereon, including landscaping, and to regulate use of such Property as described in this Declaration. Upon conveyance of the first Lot to an Owner, the Architectural Review Board shall adopt general guidelines to implement the purposes and interpret the covenants of this Article, including, but not limited to, rules not less restrictive than those contained in this Declaration to regulate the construction, remodeling, or additions affecting the exterior of the Living Units; animals and tenants; storage and use of recreational vehicles; storage and use of machinery; use of outdoor drying lines, trash containers, and plantings; and maintenance and removal of vegetation of the Property. All design guidelines and any amendments thereto must be approved by the Board of the Master Association.

7.3 Approval Required. No outbuilding, fence, wall, or other structure of any type shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to, change in, painting or staining of, or alteration to any Living Unit, outbuilding, fence, wall, structure, landscaping or other improvements on the Property of any type be made until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing by the Architectural Review Board as to the harmony of external design, materials, color, and location in relation to surrounding structures and topography.

7.4 Procedure. An Owner wishing to take any action requiring approval under this Article shall give notice of such proposed action to the Architectural Review Board, together with complete plans and specifications therefor.

The Architectural Review Board shall meet to review the Owner's request within thirty (30) days of receipt and shall render a decision by the vote of a majority of Board Members present within forty-five (45) days of receipt. Interested Owners shall have an opportunity to comment on the request at all such meetings, which shall be open to all Owners. If the Architectural Review Board fails to render a written decision within the time allowed, the request shall be deemed to be approved.

7.5 Appeal. The decision of the Architectural Review Board under this Article (including any failure to approve or disapprove within the time allowed) shall be subject to appeal by any interested Owner as set forth in this Article. Upon the payment of a reasonable fee established by the Architectural Review Board to cover administrative costs not to exceed Two Hundred and Fifty Dollars (\$250), any interested Owner may appeal the decision of the Architectural Review Board to the Association members. The appeal shall be made in writing and shall be filed with the Secretary of the Association within thirty (30) days of the decision of the Architectural Review Board. The Board of Directors shall call a special meeting to be held after ten (10) days notice and within thirty (30) days after the appeal has been filed with the Secretary of the Association. It shall require a vote of at least a majority of the votes of each Class of Association members to reverse or modify the decision of the Architectural Review Board.

7.6 Delegation. The Board of Directors may delegate the duties of the Architectural Review Board to a committee appointed by the Board composed of not less than three (3) Owners.

7.7 Master Association. In addition to complying with the architectural standards and procedures of the Association, any Owner wishing to make any changes to such Owner's Living Unit must comply with all the guidelines, standards and procedures of the Master Association.

## ARTICLE 8

### ASSOCIATION

Declarant shall organize a neighborhood association of all of the Owners within Arrowood Summit. Such Association, its successors, and assigns, shall be organized under the name "Arrowood Summit Homeowners' Association, Inc.," or such similar name as Declarant shall designate, and shall have such property, powers, and obligations as are set forth in this Declaration for the benefit of Arrowood Summit and all Owners of property located therein.

8.1 Organization. Declarant shall, before the first Living Unit is conveyed to an Owner, organize the Association as a nonprofit mutual benefit corporation under the Oregon Nonprofit Corporation Act.

8.2 Membership. Every Owner of one or more Living Units shall,



immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Living Units, be a member of the Association. Such membership shall commence, exist, and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

8.3 Voting Rights. Voting rights within the Association shall be allocated as follows:

(a) Living Units. Except as provided in Section 8.3(b) with respect to the Class B member, Living Units shall be allocated one vote per Living Unit.

(b) Classes of Voting Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant (except that beginning on the date on which the Class B membership is converted to Class A membership, and thereafter, Class A members shall be all Owners including the Declarant). Class A members shall be entitled to voting rights for each Living Unit owned computed in accordance with Section 8.3(a) above. When more than one person holds an interest in any Living Unit, all such persons shall be members. The vote for such Living Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Living Unit.

Class B. The Class B member shall be Declarant and shall be entitled to three times the voting rights computed under Section 8.3(a) for each Living Unit or unimproved Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

(i) When Living Units on seventy-five percent (75%) of the Lots have been sold and conveyed to Owners other than Declarant; or

(ii) At such earlier time as Declarant may elect in writing to terminate Class B membership; or

(iii) Upon the expiration of seven years from the date hereof.

8.4 Powers and Obligations. The Association shall have, exercise, and perform all of the following powers, duties, and obligations:

(a) Declaration. The powers, duties, and obligations granted to the Association by this Declaration.

(b) Statutory Powers. The powers, duties, and obligations of a

mutual benefit nonprofit corporation pursuant to the Oregon Nonprofit Corporation Act as it may be amended from time to time.

(c) General. Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the Oregon Nonprofit Corporation Act.

8.5 Liability. Neither the Association nor any officer or member of its Board of Directors shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of its Board of Directors, provided only that the officer or Board member has acted in good faith in accordance with the actual knowledge possessed by him.

8.6 Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of three directors or more, who shall serve as the Board of Directors of the Association until replaced by Declarant or their successors have been elected by the Owners at the turnover meeting described in this Section. Declarant shall call a meeting by giving notice to each Owner as provided in the Bylaws of the Association for the purpose of turning over administrative responsibility for Arrowood Summit to the Association not later than one hundred twenty (120) days after Living Units on seventy-five percent (75%) of the Lots in Arrowood Summit have been sold and conveyed to Owners other than Declarant. If Declarant does not call a meeting required by this Section within the required time, the Transitional Advisory Committee described in Section 8.7 below or any Owner may call a meeting and give notice as required in this Section. At the turnover meeting the interim directors shall resign and their successors shall be elected by the Owners and Declarant as provided in this Declaration and the Bylaws of the Association.

8.7 Transitional Advisory Committee. Declarant or Owners shall form a transitional advisory committee (the "Transitional Advisory Committee") to provide for the transition from administrative responsibility by Declarant of Arrowood Summit to administrative responsibility by the Association. Not later than the sixtieth (60th) day after the Declarant has conveyed to Owners other than Declarant Living Units on fifty percent (50%) of the Lots in Arrowood Summit, Declarant shall call a meeting of Owners for the purpose of selecting the Transitional Advisory Committee. The Transitional Advisory Committee shall consist of three or more members. The Owners, other than Declarant, shall select two or more members. Declarant may select no more than one member.

(a) Declarant Failure to Call Meeting. An Owner may call a meeting of Owners to select the Transitional Advisory Committee if the Declarant fails to do so as provided above.

(b) Owners' Failure to Select Members. Notwithstanding the foregoing, if the Owners do not select members for the Transitional Advisory Committee as described above, Declarant shall have no further obligation to form the Transitional Advisory Committee.

(c) Turnover Meeting. The requirement for formation of a Transitional Advisory Committee shall not apply once the turnover meeting specified in Section 8.6 above has been held.

8.8 Declarant Control After Turnover. After the turnover meeting described in Section 8.6 above, Declarant shall continue to have the voting rights described in Section 8.3(b) above. In addition, a majority of the Board of Directors of the Association shall be elected by Declarant, as Class B member, with the balance of the Board of Directors elected by the Class A members. After termination of Class B membership, all directors shall be elected by the Class A members.

8.9 Association Rules and Regulations. The Board of Directors of the Association from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of Lots, Living Units, and the Property as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the property within Arrowood Summit. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification, or revocation thereof, shall be delivered by the Association Board of Directors promptly to each Owner and shall be binding upon all Owners and occupants of all Living Units upon the date of delivery. The method of adoption of such rules shall be as provided in the Bylaws of the Association.

## ARTICLE 9

### MAINTENANCE

9.1 Maintenance of Building Exterior Finishes. Maintenance and repair of the exterior finishes of the Buildings on the Lots shall be the responsibility of the Association except as hereinafter provided. Exterior repair and maintenance of building finishes shall include the painting and restaining of the exterior walls, doors, doorframes, garage doors, patios, and reroofing. Maintenance and refinishing of decking surfaces is specifically excluded as an Association maintenance obligation, and is solely the obligation of the individual Owner to maintain, repair, or replace, as needed. However, refinishing of the exterior surfaces on all deck railings and exposed deck joists, beams and posts shall be the responsibility of the Association. Any modification to the decking surface (such as repair, replacement, or changes to the color or type of finish) shall be subject to Architectural Review under this Declaration,

and must be approved in advance by the Board of Directors.

9.2 Maintenance of Landscaping. Maintenance and repair of the landscaping on the lots shall be the responsibility of the Association except as otherwise provided in this Declaration. Each Owner shall be solely responsible for the cost of maintaining any landscaping installed by such Owner which requires an unusual amount of maintenance and for maintenance of landscaping on patios and decks. The Owner is solely responsible for arranging for the physical maintenance (including watering) of any new landscaping or other improvements. The Association is not responsible for maintaining any new landscaping, irrigation system, or other exterior modification installed by an Owner or the Owner's agents unless a maintenance agreement is made beforehand, in writing, with the board of directors. Any proposed agreement is subject to the board's approval, which may include additional assessments to cover the added cost of maintenance. The Association may adopt regulations permitting Owners to maintain landscaping on their Lots.

9.3 Negligence or Misconduct. Each Owner shall be solely responsible for the cost of any maintenance, repairs, and replacements necessitated by the negligence or intentional misconduct of such Owner or such Owner's guests or invitees.

9.4 Maintenance of Slope. Maintenance of the landscaping and other maintenance of the area described in the Slope Access, Construction, and Maintenance Agreement recorded on January 17, 2002, at Book 2002, Page 8081 shall be the responsibility of the Association.

9.5 Other Maintenance. All maintenance, repairs, and replacements required with respect to each Living Unit not specifically delegated to the Association under this Declaration or the Bylaws shall be the responsibility of the Owner of such Living Unit.

9.6 Master Association. The Association Board of Directors may contract with the Master Association for performance of certain services to be provided by the Association and in connection therewith, the Association may delegate to the Master Association such duties of the Association as the Association's Board of Directors deems appropriate.

## ARTICLE 10

### FUNDS AND ASSESSMENTS

10.1 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the administration of the Association and to promote the recreation, health, safety, aesthetics, and welfare of the Owners and for those areas for which the Association has maintenance obligations.

10.2 Covenants to Pay. Declarant and each Owner covenants and agrees to pay the Association the assessments and any additional charges levied pursuant to this Declaration or the Bylaws. Provided, however, in accordance with ORS 94.704(2) Declarant may defer payment of accrued assessments for reserves on all Lots owned by Declarant until the earlier of (i) the turnover meeting described in Section 8.6 above and (ii) if a turnover meeting is not held, the date the Owners assume administrative control of the Association.

(a) Funds Held in Trust. The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely for the operation, care, and maintenance of the Association as provided in this Declaration, including the Association's maintenance obligations. Upon the sale or transfer of any Lot, the Owner's interest in the funds shall be deemed automatically transferred to the successor in interest of such Owner.

(b) Offsets. No offsets against any assessment shall be permitted for any reason, including, without limitation, any claim that the Association is not properly discharging its duties.

10.3 Basis of Assessment/Commencement of Assessments. The initial annual assessment of the Association (not including any amounts payable to the Master Association) to Owners other than the Declarant shall be as determined by Declarant for all Lots and the initial annual assessment by the Master Association shall be as determined by the Master Association. The initial annual assessments shall commence upon the closing of property from the Declarant to a purchaser of a Lot. The assessment shall thereafter be subject to annual review by the Board of Directors.

10.4 Annual Assessments. Annual assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. For prospective purposes, any portion of a month shall count as a full month. Annual assessments shall be levied on a quarterly basis. Unless otherwise specified by the Board, annual assessments shall be due and payable on the first day of each calendar quarter during the term of Declaration.

(a) Budgeting. Regardless of the number of Owners or the amount of assets of the Association, each year the Board shall prepare, approve, and make available to each Owner a pro forma operating statement (budget) containing: (i) estimated revenue and expenses on an accrual basis; (ii) the amount of the total cash reserves of the Association currently available for the Association's maintenance obligations under this Declaration or the Bylaws and for contingencies; (iii) an itemized estimate for the remaining life of, and the methods of funding to defray repair, replacement, or additions pursuant to Association's maintenance obligations under this Declaration or the Bylaws; and (iv) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the cost of repair, replacement, or additions pursuant to the Association's

maintenance obligations under this Declaration or the Bylaws. For the first fiscal year, the budget shall be approved by the Board no later than the date on which annual assessments are scheduled to commence. Thereafter, the Board shall annually prepare and approve the budget and distribute a copy thereof to each Owner, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, not less than thirty (30) days and not more than ninety (90) days prior to the beginning of the fiscal year.

(b) Allocation of Assessments. Except as provided below, the total amount in the budget shall be charged equally against all Lots as annual assessments.

(c) Nonwaiver of Assessments. If before the expiration of any fiscal year the Association fails to fix annual assessments for the next fiscal year, the annual assessments established for the preceding year shall continue until a new annual assessment is fixed.

10.5 Special Assessments. The Board of Directors shall have the power to levy special assessments against an Owner or all Owners in the following manner for the following purposes:

(a) Correct Deficit. To correct a deficit in the operating budget, by vote of a majority of the Board of Directors;

(b) Repairs. To make repairs or renovations pursuant to the Association's maintenance obligations under this Declaration or the Bylaws if sufficient funds are not available from the operating budget or replacement reserve accounts, by vote of a majority of the Board of Directors; or

(c) Capital Improvements. To make capital acquisitions, additions, or improvements, by vote of at least seventy-five percent (75%) of all votes allocated to the Lots.

(d) Reimbursement Assessments. The Association shall levy a reimbursement assessment against any Owner and his/her Lot if a failure to comply with the Declaration, Bylaws, or any rules and regulations adopted by the Board of Directors has (i) necessitated an expenditure of monies by the Association to bring the Owner into compliance or (ii) resulted in the imposition of a fine or penalty. A reimbursement assessment shall be due and payable to the Association when levied. A reimbursement assessment shall not be levied by the Association until after a notice of hearing has been given and:

- (i) the hearing has been held;
- (ii) the Owner declines in writing to appear at the hearing; or

(iii) the time set for the hearing has passed and the Owner failed to appear. (An Owner may request a different hearing date on time and the Board of Directors shall not unreasonably deny such request.)

If a notice has been previously given, and the hearing has already been held or waived (in writing or by the Owner failing to appear) for the violation resulting in the reimbursement assessment, no additional notice and hearing is required prior to levying the reimbursement assessment.

#### 10.6 Accounts.

(a) Types of Accounts. Assessments collected by the Association shall be deposited into at least two (2) separate accounts with a bank, which accounts shall be clearly designated as (i) the Current Operating Account, and (ii) the Reserve Account. The Board shall deposit those portions of the assessments collected for current maintenance and operation into the Current Operating Account and shall deposit those portions of the assessments collected as reserves for replacement and deferred maintenance of capital improvements into the Reserve Account. Withdrawal of funds for the Association's Reserve Account shall require the signatures of either two (2) Directors or one (1) Director and an officer of the Association who is not a Director.

(b) Reserve Account. The Declarant shall establish a reserve account, in the name of the Association, which shall be kept separate from all other funds in the Association. The Association shall pay out of the reserve account only those costs that are attributable to the Association's maintenance obligations for items that normally require replacement, in whole or in part, within three (3) to thirty (30) years and not for regular or periodic maintenance and expense. No funds collected for the reserve account may be used for ordinary current maintenance and operation purposes.

(i) Calculation of Reserve Assessment. Not less often than annually, the Board of Directors shall inventory the Association's maintenance obligations and shall generally estimate the remaining life of each item subject to the Association's maintenance obligations and the current replacement cost of each of such items. The Board of Directors may identify items for which a reserve account assessment is required. The total reserve account assessment shall be equal to the sum of the estimated replacement cost of each item subject to the Association's maintenance obligations which has an estimated life of greater than three (3), but less than thirty (30) years, divided by the estimated number of years of life for such item (not the estimated years of life remaining). The reserve account assessment shall be allocated pursuant to Section 10.4(b).

(ii) Loan from Reserve Account. After the Turnover Meeting described in Section 8.6, the Board of Directors may borrow funds from the

Reserve Account to meet high seasonal demands on the Association's regular operating fund or to meet other temporary expenses. Funds borrowed to meet high seasonal demands or temporary expenses under this subsection must be repaid from special assessments or maintenance fees within eighteen (18) months of the date on which such funds are borrowed.

(iii) Reduction or Elimination of Reserve Account Assessment.

At any time after the second year after the Turnover Meeting, future assessment for the reserve account may be reduced or eliminated by the vote of Owners of Lots representing seventy-five percent (75%) of the votes computed in accordance with Section 8.3.

(iv) Investment of Reserve Account.

Nothing in this Section 10.6 prohibits the prudent investment of reserve account funds, subject to any constraints imposed by the Board of Directors of the Association, the Bylaws, or the rules and regulations adopted by the Board of Directors.

(v) Current Operating Account.

All other costs may be paid from the current operating account.

10.7 Default in Payment of Assessments, Enforcement of Liens.

(a) Personal Obligation.

All assessments properly imposed under this Declaration or the Bylaws shall be the joint and several personal obligations of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (that is, one other than through foreclosure or a deed in lieu of foreclosure), the grantees shall be jointly and severally liable with the grantor(s) for all Association assessments imposed through the recording date of the instrument effecting the conveyance. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.

(b) Association Lien.

At any time any assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof is delinquent, the Association, by and through its Board or any management agent, may file a notice of lien in the deed records of Deschutes County, Oregon, against the Lot in respect to which the delinquency pertains. Once filed, such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorney fees (whether or not suit or action is instituted), and all other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time, but not later than six (6) years after the latest lienable charge has been imposed. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of trust, or land sale contract recorded previously to the Association's note of lien and any mortgage or deed of trust granted to an institutional lender which is recorded previously to the Association's notice of lien.



(c) Interest; Fines; Late Fees; Penalties. The Board, in its reasonable discretion, may from time to time adopt resolutions to set the rate of interest and to impose late fees, fines, and penalties on delinquent assessments or for violations of the provisions of this Declaration, the Bylaws, and the rules and regulations adopted by the board. The adoption of such impositions shall be communicated to all Owners in writing not less than thirty (30) days before the effective date by a notice mailed to the assessment billing address of such Owners. Such impositions shall be considered assessments which are lienable and collectible in the same manner as any other assessments. Provided, however, fines or penalties for violation of this Declaration, the Bylaws or any rule and regulation, other than late fees, fines, or interest arising from an Owner's failure to pay regular, special, or Reimbursement Assessments, may not be imposed against an Owner or his/her Lot until such Owner is given an opportunity for a hearing as elsewhere provided herein.

(d) Acceleration of Assessments. In the event an Owner is delinquent in payment of any assessment or installment on any assessment, the Association, upon not less than ten (10) days' written notice to the Owner, may accelerate the due date of the full annual assessment for that fiscal year and all future installments of any special assessments.

(e) Association's Right to Rents/Receiver. In any foreclosure suit by the Association with respect to such lien, the Association shall be entitled to collect reasonable rent from the defaulting Owner for the use of his/her Lot or shall be entitled to the appointment of a receiver. Any default by the Owner in any provisions of the Declaration or Bylaws shall be deemed to be a default by the Owner of any mortgage to which the Owner is a party or to which the Lot is subject.

## ARTICLE 11

### ENFORCEMENT

11.1 Remedies. In the event any Owner or the invitee of any Owner shall violate any provision of this Declaration, the Bylaws of the Association or any rules or regulations adopted by the Association governing the use of Lots or Living Units, then the Association, acting through its Board of Directors, may notify the Owner in writing that the violations exist and that such Owner is responsible for them, and may, after reasonable notice and opportunity to be heard, do any or all of the following: (a) suspend the Owner's voting rights for the period that the violations remain unabated, or for any period not to exceed sixty (60) days for any infraction of its rules and regulations, (b) bring suit or action against such Owner to enforce this Declaration, (c) impose fines if provided in the Bylaws of the Association, and (d) file a lien for nonpayment of amounts due under this Declaration or the Bylaws. Nothing in this section, however, shall give the Association the right to deprive any Owner of access to and from such Owner's Living Unit.

11.2 Nonqualifying Improvements and Violation of General Protective

Covenants. In the event any Owner constructs or permits to be constructed on such Owner's Lot an Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on such Owner's Lot, then the Association acting through its Board of Directors may notify the Owner in writing of any such specific violations of this Declaration and may require the Owner to remedy or abate the same in order to bring the Owner's Lot, the Improvements thereon, and the Owner's use thereof, into conformance with this Declaration. If the Owner is unable, unwilling, or refuses to comply with the Association's specific directives or remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within sixty (60) days of written notice to the Owner, then the Association acting through its Board of Directors, shall have, in addition to any other rights or remedies provided in this Declaration, at law or in equity, the right to do any or all of the following:

(a) Remove Cause of Violation. Enter onto the offending Lot, without being subject to any trespass, conversion, or any other claim for damages, and remove the cause of such violation, or alter, repair, or change the item which is in violation of the Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done.

(b) Suit or Action. Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

11.3 Nonexclusiveness of Remedies. An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder.

## ARTICLE 12

### MISCELLANEOUS PROVISIONS

12.1 Amendment and Repeal. This Declaration, or any provision hereof, may amended or repealed at any time (including, without limitation, within the first 30 years) by the vote or written consent of Owners holding not less than seventy-five percent (75%) of the Class A votes, together with the vote or written consent of the Class B member, if such membership has not been terminated as provided herein. Any such amendment or repeal shall become effective only upon recordation in the Deed Records of Deschutes County, Oregon, of a certificate of the president or secretary of the Association setting forth in full the amendment, amendments or repeal so approved and certifying that such amendment, amendments or repeal have been approved in the manner required by this Declaration. In no event shall an amendment under this section create, limit, or diminish special Declarant rights without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the

amendment.

12.2 Amendments. Notwithstanding the provisions of Section 12.1 above, until termination of the Class B membership, Declarant shall have the right to amend this Declaration or the Bylaws of the Association in order to comply with the requirements of any applicable statute, ordinance, regulation, or ruling of the Federal Housing Administration, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon which insures, guarantees or provides financing for a planned community or lots in a planned community.

12.3 Duration. This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included in Arrowood Summit and the Owners thereof for an initial period of thirty (30) years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property in Arrowood Summit and the Owners thereof for successive additional periods often (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent, or other action whatsoever; provided, however, that this Declaration may be terminated at the end of the initial or any additional period by resolution approved not less than six (6) months prior to the intended termination date by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the Class A votes and the vote or written consent of the Class B member, if any. Any such termination shall become effective only if prior to the intended termination date a certificate of the president or secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the Deed Records of Deschutes County, Oregon. Such termination shall not have the effect of denying any Owner access to such Owner's Lot unless such Owner and any mortgagee of such Lot have consented in writing to the termination.

12.4 Joint Owners. In any case in which two or more persons share the ownership of any Living Unit, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

12.5 Lessees and Other Invitees. Lessees, invitees, contractors, family members, and other persons entering Arrowood Summit under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement, or enjoyment of such Owner's Lot, Living Unit, and other areas within Arrowood Summit. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

12.6 Nonwaiver. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

12.7 Construction; Severability. This Declaration shall be liberally construed as one document to accomplish the purposes stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

12.8 Notices and Other Documents. All notices and other communications under this Declaration shall be in writing and shall be deemed to have been given on the day of delivery when delivered by personal service and to have been given three business days after delivery to the United States mails certified or registered mail, return receipt requested, addressed to the party to which such notice is directed at the last address for such person shown in the Association's records.

(a) Change of Address. Any party hereto may change the address to which notices shall be directed by giving ten days written notice of such change to the Association delivered as provided herein.

12.9 Conflict. In case of any conflict between the terms of this Declaration and the terms of the Master Declaration, the terms of the Master Declaration shall control.

12.10 Enforcement/Attorney Fees. The Association and the Owners within the Property or any mortgagee on any Lot shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens, and charges now or hereinafter imposed by any of the provisions of this Declaration as may appertain specifically to such parties or owners by any proceeding at law or in equity. Failure by either the Association or by any Owner or mortgagee to enforce any covenant, condition, or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. In the event suit or action is commenced to enforce the terms and provisions of this Declaration, the prevailing

party shall be entitled to its attorney fees and costs in such suit or action to be fixed by the trial court, and in the event of an appearance, the cost of the appeal, together with reasonable attorney fees, to be set by the appellate court. In addition thereto, the Association shall be entitled to its reasonable attorney fees incurred in any enforcement activity taken to collect delinquent assessments, whether or not suit or action is filed.

12.11. Certification. The undersigned officers of the Association hereby certify pursuant to ORS 94.590(6) that this restated declaration includes all amendments in effect previously adopted by the Owners and no other changes except, if applicable, to correct scrivener's errors or to conform format and style.

DATED this 26<sup>th</sup> day of October, 2006.

**ARROWOOD SUMMIT HOMEOWNERS ASSOCIATION**

By: [Signature]  
Frank Lemma, President

By: [Signature]  
Joe Kolbo, Secretary



STATE OF OREGON            )  
  ) ss.  
COUNTY OF Deschutes    )

The foregoing instrument was acknowledged before me on this 26 day of October, 2006, by Frank Lemma, President of Arrowood Summit Homeowners' Association, on its behalf.

[Signature]  
Notary Public for Oregon  
My Commission Expires: 11/18/06



STATE OF OREGON            )  
  ) ss.  
COUNTY OF Deschutes    )

The foregoing instrument was acknowledged before me on this 26 day of October, 2006, by Joe Kolbo, Secretary of Arrowood Summit Homeowners' Association, on its behalf.

[Signature]  
Notary Public for Oregon  
My Commission Expires: 11/18/06

20 – FIRST RESTATED DECLARATION OF ARROWOOD SUMMIT AT SKYLINER  
SUMMIT AT BROKEN TOP

The foregoing First Restated Declaration is hereby approved:

**SKYLINER SUMMIT AT BROKEN TOP  
HOMEOWNERS' ASSOCIATION BOARD OF DIRECTORS**

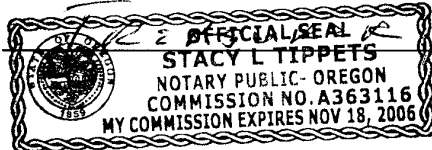
By: Gordon J. Middlecamp  
Name: GORDON J. MIDDLECAMP

Title: Treasurer

STATE OF OREGON )

COUNTY OF Deschutes )

) ss.



The foregoing instrument was acknowledged before me on this 26 day of October, 2006, by Gordon J. Middlecamp who is Treasurer of the Board of Directors of the Skyliner Summit At Broken Top Homeowners' Association, on its behalf.

Stacy L. Tippetts  
Notary Public for Oregon  
My Commission Expires: 11/18/06

EXHIBIT "A"

Lots thirty-one (31) through Fifty (50) and Tract O and Tract P, SKYLINER SUMMIT  
AT BROKEN TOP PHASE 4, Deschutes County, Oregon.