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## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE CORAZON DEL PUEBLO HOMEOWNERS ASSOCIATION

This Declaration is made on this 28 day of January, 2005,  
by LAWYERS TITLE OF ARIZONA, INC., AN ARIZONA CORPORATION ("Trustee"), as  
Trustee under Trust No. 7756-T . (hereinafter referred to as "Declarant").

### WITNESSETH:

Declarant is the Owner of the following described Property:

Lots 1 through 393 and Common Areas as shown on the Plat of Corazon Del Pueblo, a  
subdivision in Pima County, Arizona as recorded in Book 59 of Maps and Plats, at Pages  
79-1 through 79-11 in the records of the Pima County, Arizona, Recorder.

**NOW THEREFORE**, Declarant hereby declares that all of the Property described above  
shall be held, sold and conveyed subject to the following easements, covenants, conditions, and  
restrictions stated below (hereinafter the "Declaration"), all of which are for the purpose of setting  
forth the general scheme for Development of the Property, and this Declaration shall run with the  
land and shall be binding upon all persons having or acquiring any right, title, or interest in the  
Property, or any portions thereof and shall inure to the benefit of each Owner thereof.

### ARTICLE I Definitions

- Section 1. "Association" shall mean and refer to the Corazon Del Pueblo Homeowners  
Association, an Arizona non-profit corporation, its successors, and assigns.
- Section 2. "Common Areas" shall mean all Property owned and maintained by the Association,  
including but not limited to any entry signage and monumentation, any private  
drainageways, any other common elements installed by the Developer, and all areas  
designated on the Plat as Common Areas, as recorded in the office of Pima County,  
Arizona, Recorder in Book 59, at Pages 79-1 through 79-11 of Maps and Plats.  
Backyards are not considered to be Common Areas and are for the sole use and  
enjoyment of individual Lot Owners.

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- Section 3. “Declarant” shall mean LAWYERS TITLE OF ARIZONA, INC., AN ARIZONA CORPORATION (“Trustee”), as Trustee under Trust No. 7756-T or its successor designated in a recorded writing.
- Section 4. “Developer” shall mean Habitat for Humanity Tucson, Inc., or any successor designated in writing by Declarant.
- Section 5. “Development Period” shall terminate upon conveyance of the last Lot from Declarant to an Owner or such earlier date as Declarant shall state by written notice to the Association.
- Section 6. “Lot” and “Lots” shall be synonymous and shall mean and refer to Lots numbered 1 through 393 inclusive, shown upon the recorded Property Plat, and any improvements thereon, including but not limited to a residence, driveway, patios, pools, approved sports courts, and related walls.
- Section 7. “Member” shall mean and refer to every person or entity who holds membership in the Association by virtue of being a record Owner of fee simple title to any portion of the Property.
- Section 8. “Mortgage” shall mean any mortgage, deed of trust, or other security instrument by which a dwelling Lot or any part thereof is encumbered, and the term “First Mortgagee” means the holder of any mortgage under which the interest of any Owner of a Lot is encumbered and which mortgage has first and paramount priority, subject only to the lien of general or ad valorem taxes and assessments.
- Section 9. “Owner” shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to one or more Lots numbered 1 through 393, inclusive, excluding those having an interest merely as security for the performance of an obligation.
- Section 10. “Plat” shall mean the plat of Corazon Del Pueblo Subdivision, Lots 1 through 393, and Common Areas as shown, recorded in the office of the Pima County, Arizona, Recorder in Book 59 at Pages 79-1 and 79-11 of Maps and Plats.
- Section 11. “Property” or “Properties” shall mean and refer to that certain real property described as:  
 Lots 1 through 393, and Common Areas as shown , on the Plat of Corazon Del Pueblo, a subdivision of Pima County, Arizona, as recorded in Book 59 of Maps and Plats, at Pages 79-1 and 79-11 in the records of the Pima County, Arizona, Recorder.

Section 12. “Visible from Other Lots” shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall, standing at ground level on any part of such neighboring Properties.

## ARTICLE II

### The Corazon Del Pueblo Homeowners Association

Section 1. Association. The affairs of the Association shall be conducted by the Corazon Del Pueblo Homeowners Association, a non-profit corporation.

Section 2. Right of Inspection. Members of the Association and the First Mortgagee of any Lot shall have the right at reasonable times, by appointment, to inspect the books and records of the Association.

Section 3. Right of Notice. Each First Mortgagee shall, upon request to the Association, be entitled to a written notification from the Association of any default in the performance by the Member/Owner of a Lot encumbered by the Mortgage in favor of such Mortgagee of any obligation under this Declaration or under the Articles of Incorporation, Bylaws, ARC Design Guidelines, or Rules and Regulations of the Association which is not cured within sixty (60) days.

Section 4. Management and Service Contracts. Any agreement with the Association for professional management or other services of the Association shall not exceed three (3) years. Any such agreement shall provide for termination by the Association without cause and without payment of a termination fee on ninety (90) days or less written notice.

Section 5. Maintenance by Association. Except as otherwise stated herein, the Association shall be responsible for the control, liability, maintenance, repair and replacement of Common Areas. The Association will be solely responsible for the operation, scheduled and unscheduled maintenance and liability for private drainage structures (drainage ways) and retention basins within the common areas. The Association shall have an Arizona registered professional civil engineer prepare a certified inspection report for the drainage and detention/retention facilities at least once each year and also following any damaging floods, in order to inspect and certify compliance with the drainage way and detention/retention basin maintenance inspection criteria contained in the approved drainage report for the development or subdivision, and that these regular inspection reports be on file with the Homeowners' Association for review by the staff, upon written request. The Association agrees to reimburse the City of Tucson for any and all cost associated with maintaining the private drainage and detention/retention facilities, should the city find the Association deficient in their obligation to adequately operate and maintain their facilities. The City staff may periodically inspect the private drainage detention/retention facilities to verify that scheduled and unscheduled maintenance activities are being performed adequately.

Section 6. Taxes. The Association shall be responsible for any appropriate taxes, including ad valorem taxes.

Section 7. Insurance. The Association shall be responsible for obtaining and enforcing liability and property damage insurance on Common Areas as approved by the Board of Directors of the Association.

Section 8. Liability. To the fullest extent permitted by law, the Declarant, the Board, and any committee of the Association and any Member thereof, or the officers, directors, or employees of the Declarant or of the Association shall be immune from civil liability and shall not be subject to suit directly or indirectly by the Association or its Members for breach of fiduciary duty resulting in damage or injury if such person was acting in good faith and within the scope of his official capacity, unless such damage or injury was caused by the willful and wanton or grossly negligent conduct of such person. Official capacity is any decision, act or event undertaken by the Association or the Declarant in furtherance of the purposes for which the Association was organized; provided, however, that liability shall not be limited for any of the following:

1. Any breach of the duty of loyalty to the Association or to its Members;
2. Acts or omissions which are not in good faith or which involve intentional misconduct or known violation of law;
3. Any transaction from which is derived an improper personal benefit; or
4. Any violation of Sections 10-3830 or 10-3864 of the Arizona Revised Statutes, as amended.

To the fullest extent permitted by law, Declaration and every director, officer, or committee member of the Association and of the Declarant shall be indemnified by the Association. Every other person serving as an employee or direct agent of the Association, or otherwise acting on behalf of, and at the request of, the Association may, in the discretion of the Board, be indemnified by the Association.

Any such indemnification shall be limited to all expenses and liabilities, including attorneys' fees reasonably incurred by or imposed upon such person in connection with any proceeding to which he/she may be a party or in which he/she may become involved by reason of his/her being or having served in such capacity on behalf of the Association (or in the case of Declarant, by reason of having appointed, removed, controlled or failed to control members of the Board, or controlled or failed to control the Association), or incurred in any settlement thereof, whether or not he/she is a director, officer or member of a committee or serving in such other specific capacity at the time such expenses are incurred.

### ARTICLE III

#### Membership and Voting Rights

Section 1.     Membership.         Every Owner of a Lot numbered 1 through 393 shall be a Member of the Association and such Membership shall be appurtenant to and may not be separated from Ownership of any Lot.

Section 2.     Voting Rights.         The Association shall have two (2) classes of voting Membership:

Class A:                     Class A Members shall be all Owners of Lots with the exception of the Class B Member until termination of the Class B Membership, and each Class A Member shall be entitled to one (1) vote for each Lot in which they hold the interest required for Membership. When more than one (1) person holds the interest required for Membership, all such persons shall be Members, but 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. Notwithstanding the above, Class A Members shall be entitled to vote only on the annual budget until termination of the Development Period, at which time full voting rights shall accrue to all Class A Members.

Class B:                     The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (5) votes for each Lot in which it holds a fee interest. The Class B Membership shall cease and be converted to Class A Membership upon the earlier to occur of (a) termination of the Development Period, or (b) written notice of termination from Declarant.

### ARTICLE IV

#### Property Rights

Section 1.     Private Residential Use.         The Property shall be used solely for single-family residential purposes, provided, however, Declarant and Developer shall have the right to erect and maintain such sales and construction models, signs, office areas, and related facilities as they deem appropriate for sales on the Property, and Declarant may assign this right as they deem appropriate.

Section 2. Sign Easement. Any areas on the Property owned by Declarant may be designated by Declarant as a "sign easement" and shall be used for purposes of erecting and maintaining such signs as Declarant shall determine and a valid easement for such purposes is hereby declared to exist for the benefit of Declarant and Developer during the Development Period.

#### ARTICLE V

#### Ownership and Management of Common Area

Section 1. Conveyance of Common Area. Declarant shall grant and convey to the Association, and the Association shall receive ownership of, the Common Area upon the sale of the last lot in the subdivision. Upon such conveyance and grant, the Association shall succeed to all rights, duties and powers with respect to the Common Area as prescribed by law and set forth in the Articles, By-Laws and this Declaration.

Section 2. Damage or Destruction of Property. In the event any Common Area is damaged or destroyed by an Owner or any of his/her guests, tenants, licensees, agents or members of his/her family, such Owner shall be liable therefor to the extent of liability imposed by local law, and such Owner does hereby irrevocably authorize the Association to repair the damaged property, and the Association shall so repair the damaged property in good workmanlike manner in substantial conformance with the original plans and specifications. The Owner shall then repay the Association in the amount actually expended for such repairs.

#### ARTICLE VI

#### Covenant for Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Owner of each Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, reasonable late fees as determined by the Board, costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, late fees, costs, and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessments fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2.     Purpose of Assessments.     The assessments levied by the Association shall be used exclusively to perform all obligations of the Association or reasonably related thereto, including maintenance of Common Areas, or any easements serving the Association. All such dues, charges, and assessments imposed by the Association shall be paid on a periodic basis in regular installments as the Board of Directors shall determine.

Section 3.     Annual Assessment.     All assessments may be from time to time specifically determined and authorized by the Board of Directors. The Association is specifically authorized and encouraged to seek public and private funds to help defray, in whole or in part, the expenses for which assessments would be necessary. To the extent received, such funds shall be used to reduce the assessments otherwise required by the annual budget.

Section 4.     Computation of Assessment.     It shall be the duty of the Board, at least (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Membership, to prepare a budget covering the estimated costs of operating the Association during the coming year and a reserve fund for deferred expenditures or deferred maintenance as the Board shall determine. The budget and any assessments proposed by the Board shall become effective unless disapproved at a meeting of the Members by a vote of at least a majority of the total Association votes. In the event the Membership disapproves of the proposed budget, or if the Board fails, for any reason, to determine the budget for the succeeding year, then and until such time as the budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 5.     Maximum Annual Assessment.     Subject to Section 6 herein, the Board of Directors shall not increase the annual assessment by an amount greater than ten percent (10%) of the amount of the preceding annual assessment or that limitation established by current or subsequent statute affecting subdivisions.

Section 6.     Authority to Exceed Maximum Annual Assessment.     In accordance with current or subsequent statute affecting subdivisions, any increase by the Board of Directors in the annual assessment which is greater than the amount permitted under Section 5 herein must have the assent of two-thirds (2/3rds) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 7.     Developer Assessment Obligation.     Notwithstanding anything to the contrary stated herein, the provisions of this Declaration regarding payment of assessments shall not apply to any unoccupied Lot owned by the Declarant. As used herein, "unoccupied" shall mean a Lot which is not occupied as a residence. In consideration of the foregoing, the Declarant agrees that if, during its Class B Membership, the total assessments levied are insufficient to meet the operating expenses of the Association, the Declarant shall pay the deficiency. After Declarant's Class B Membership ceases, the Declarant shall not be required to pay a deficiency, and Lots owned by Declarant shall be assessed at twenty-five percent (25%) of the normal assessment rate.

Section 8.     Special Assessments.             In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, and nonperiodic repair or replacement of a capital improvement, or other necessary expense incidental to the purposes of the Association as determined by the Board of Directors, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of all Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 9.     Notice and Quorum for Any Action Authorized under Section 6.     Written notice of any meeting called for the purpose of taking any action authorized under Section 6 shall be sent to all Members not less than ten (10) days nor more than fifty (50) 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 votes of the Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, 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.

Section 10.    Uniform Rate of Assessment.         Except as otherwise stated in Section 4 of this Article, both annual and special assessments must be fixed at a uniform rate for all Lots subject to assessment, and may be collected on a monthly basis or prepaid on a quarterly, semiannual, or annual basis, as determined by the Board.

Section 11.    Date of Commencement of Assessment.     The assessments provided for herein shall commence as to each Lot on the day following the conveyance of a Lot, on a prorated basis for the month, and collected quarterly, semiannually, or annually in advance, as determined by the Board, at close of escrow.



Section 12. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum, and other reasonable monthly late fees as determined by the Board. The Association may bring an action at law against the Owner personally obligated to pay any assessment, or foreclose the lien against the Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of or abandonment of his or her Lot.

Section 13. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to Mortgage foreclosure of any purchase money lien or of any mortgage perfected before the recordation of this Declaration, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. A violation of these restrictive covenants, or any one or more of them, shall not affect the lien of any Mortgage now of record, or which may hereafter be placed of record upon Lots or any part thereof.

**ARTICLE VII**  
Architectural Control

Section 1. Architectural Review Committee (ARC). Except for improvements and dwelling Lots constructed by Declarant or Developer, no dwelling Lot, building, fence, wall, or other exterior structure or improvement of any kind, including landscaping, shall be commenced, erected, or maintained upon a Lot, nor shall any exterior addition to or change or alteration of any improvement be made upon a Lot until the detailed plans and specifications showing the nature, kind, shape, style, height, materials, color, and location of the same has been submitted to and approved in writing by the Architectural Review Committee. The Developer or agent designated by Developer shall act as the initial Architectural Review Committee. The Architectural Review Committee may, at its sole discretion, hire the services of experts of its choice who need not be members of the Association. After (i) termination of the Development Period, or (ii) resignation of Developer as Architectural Review Committee, the Board of Directors of the Association shall act as the Architectural Review Committee, or may appoint an Architectural Review Committee composed of three or more representatives. The Architectural Review Committee shall have the exclusive right, exercisable in its sole discretion, to promulgate written guidelines, rules, regulations, and restrictions (hereinafter "ARC Design Guidelines") concerning any construction, change, or alteration to be made on or concerning any improvement, including landscaping, on Lots. The Architectural Review Committee shall have the right to amend such ARC Design Guidelines so promulgated, or waive any ARC Design Guidelines, provided that in no event shall any waiver be effective

unless in writing and signed on behalf of the Architectural Review Committee by a person duly authorized to sign such waiver. Further, no such waiver shall be deemed a waiver of the right to enforce the covenants and restrictions contained in this Declaration, or the right to enforce the ARC Design Guidelines promulgated by the Architectural Review Committee in the future as to others. The ARC Design Guidelines shall carry the same force and effect as this recorded Declaration, and may be enforced through the same procedures as set forth in this Declaration.

Section 2.      Approval Process.              Any Owner or potential purchaser of a Lot may, prior to submitting any plans to the Architectural Review Committee for approval, request in writing a copy of the current ARC Design Guidelines from the Committee. In the event the Board or its designated Architectural Review Committee fails to approve or disapprove submitted plans within thirty (30) days after the plans have been submitted, it shall be presumed that the Board disapproves said plans, and no construction, change or alteration shall be permitted. The plans submitted to the Architectural Review Committee shall be submitted in duplicate and shall be sealed by a registered architect if required by the Architectural Review Committee. Application for approval of plans shall be accompanied by the payment of a fee if designated in the ARC Design Guidelines, for the purpose of defraying expenses of the Architectural Review Committee in connection with the review. Approval of plans and specifications for any Lot shall be in the sole discretion of the Architectural Review Committee.

Section 3.      Occupancy.                      No dwelling Lot shall be occupied until construction has been completed pursuant to plans approved by the Architectural Review Committee, and the final inspection has been approved the appropriate government agency.

Section 4.      Completion of Construction. All construction shall be completed within twelve (12) months from "start" thereof unless a waiver and extension of time is issued by the Architectural Review Committee. For the purposes of this paragraph "start" shall mean the date of issuance of a building permit for an improvement on a Lot.

Section 5.      ARC Design Guidelines.              Each Lot and dwelling Lot to be constructed thereon shall be subject to the ARC Design Guidelines regarding setbacks, building envelopes, exterior color, compatibility with natural topography of Lot, impact on neighboring Lots, and other criteria.

Notwithstanding minimum setback requirements of Pima County, the Architectural Review Committee shall have the authority to prescribe setback requirements (not less than Pima County minimums) as the Committee shall deem appropriate for the particular Lot and dwelling Lot to be constructed thereon, and the Architectural Review Committee shall also have the right to approve the building site, orientation, and location of dwelling Lot thereon.

Section 6.     ARC Fees.                     The Architectural Review Committee shall have the right and privilege to require a fee equal to its actual cost of administration for review of plans, and expenses of expert advice in connection with said review.

Section 7.     ARC Refundable Deposit.     The Architectural Review Committee shall have the right to require a refundable deposit, in an amount to be determined by the Board, at the time plans are submitted for review.

Section 8.     Liability.                     The Architectural Review Committee and agents employed by the Architectural Review Committee shall not be liable in damages to anyone or to any Owner or Owners of Property subject to this Declaration by reason of mistaken judgment, negligence or nonfeasance of itself, its agents, or employees, arising out of or in connection with the approval or disapproval, or failure to approve any such plans. Anyone submitting plans to the Architectural Review Committee, and any person acquiring Ownership in any portion of the Property, waives all claims for any such damages.

Section 9.     Right to Grant Variances.     The Architectural Review Committee or its duly appointed agent for such purpose shall have the right to grant variances as to any of the provisions of the ARC Design Guidelines, or to waive any such provisions as it shall, in its sole discretion, determine upon good cause shown. Any such variance or waiver so granted shall be in writing and shall be made prior to the time that the subject matter set forth in the written variance or waiver is acted upon or implemented unless otherwise expressly stated in such written variance or waiver. Any such variance or waiver so granted as to any particular subject matter shall not constitute a similar or dissimilar variance or waiver as to any other matter affecting the same Lot or any other Lot. Any such variance or waiver set forth in writing by the Architectural Review Committee, or its duly appointed agent, shall be specific to that Lot only, and shall not be applied to any other Lot.

Section 10.   Nonconforming Architectural Improvements. In the event that the architectural improvements do not, upon the proposed completion date set forth in the construction schedule, conform to the plans submitted to and approved by the Architectural Review Committee, the Architectural Review Committee shall give written notice to the Owner of the property upon which such architectural improvements have been made. Such notice shall specify the nature of the nonconformity of the architectural improvements and shall grant the Owner a hearing before the Architectural Review Committee.

If Owner has not, within 60 days of the mailing or delivery of the written notice, corrected the nonconformity of the architectural improvements, then the Architectural Review Committee shall have the right and an easement to direct its agents,

employees or contractors to enter upon the said Owner's property for the purpose of making any or all of such improvements, alterations, or repairs as are necessary to bring the Owner's architectural improvements into conformity with the plans submitted to and approved by the Architectural Review Committee.

All costs incurred by the Association in the course of the Architectural Review Committee's efforts to bring nonconforming architectural improvements into conformity with the approved plans, including costs of labor, materials and all associated administrative costs reasonably incurred by the Association in connection therewith, shall be added to and become part of the Assessment to which such Owner's Lot is subject and shall become a lien on such Owner's Lot and the improvements thereon, and shall be enforceable and collected as provided for herein.

Section 11. Color and Building Materials. Without limiting the foregoing, no color changes or any changes in the original building structure, composition or products shall be permitted without approval of the Architectural Review Committee. All exterior surfaces, when maintained, shall be painted with paint of the same finish, color, and hue as the original paint utilized in painting the same by the Developer, unless the Architectural Review Committee authorizes the use of another paint, in accordance with the provisions hereof.

## **ARTICLE VIII**

### Maintenance

Section 1. Landscaping. The general scheme and type of landscaping shall be as provided in the ARC Design Guidelines, which shall contain a list of approved and prohibited plants and trees. No living plants, shrubs, or trees shall be placed or maintained upon any unenclosed patio or yard area on the Property or any Lot unless a detailed landscaping plan shall have been first approved by the Architectural Review Committee as meeting the criteria for approved and prohibited plants and trees as stated in the ARC Design Guidelines. Lot Owners shall provide and maintain all landscaping on their individual Lots, and shall maintain their Lots free of weeds, debris, or other materials which are not in keeping with the ARC Design Guidelines. The Association shall be responsible for maintenance of any landscaping on Common Areas, . The native growth on the Property, including cacti and native trees, shall not be destroyed or removed from any portion of the Property except as may be necessary for permitted and approved improvements.

Section 2. Association Right of Entry. The Association has the right, at any time, to enter upon and maintain landscaping and natural growth on any Lot when the Board of Directors of the Association determines that such maintenance is required, and the Owner of such Lot has failed to perform the maintenance after written notice and

demand from the Association. The cost of such action by the Association may be added to the assessment obligation at the discretion of the Board of Directors, and such cost shall be calculated by adding actual cost of maintenance and repair, plus an additional one-third of such actual cost for administrative costs of the Association.

Section 3.     Exterior Maintenance.             The responsibility for exterior or common element maintenance shall be assumed by the Association as defined by "Common Areas" in Article I, Section 2 of this document.

Section 4.     Party Walls.                     Except as hereinafter provided, the rights and duties of Owners with respect to party walls or fences between Lots or between Lots and Common Areas shall be as follows:

- (i)     The Owners of contiguous Lots who have a party wall or fence shall both equally have the right to use such wall or fence provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner.
- (ii)    In the event that any party wall or fence is damaged or destroyed through the act of an Owner or any of his tenants, Lessees, agents, guests, or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the party wall or fence without cost to the Owner of the adjoining Lot. Any dispute over an Owner's liability for such damage shall be resolved as provided in subsection (v) below, but any liability imposed on an Owner hereunder shall not prevent the Owner from seeking indemnity therefore from the persons causing such damage.
- (iii)   In the event any party wall or fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his tenants, Lessees, agents, guests, or family, it shall be the obligation of all Owners whose Lots adjoin such party wall or fence to rebuild and repair such wall or fence at their joint expense to be allocated among the Owners in accordance with the frontage of their Lots on the party wall or fence.
- (iv)    Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any party wall or fence without the prior consent of all Owners of any interest therein, whether by way of easement or in fee.

- (v) In the event of a dispute between Owners with respect to the construction, repair, or rebuilding of a party wall or fence, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Board, the decision of which shall be binding, anything in the foregoing to the contrary notwithstanding.
- (vi) In the case of party walls or fences (1) between Common Areas and Lots, or (2) constructed by the Declarant or the Association on Common Areas, the Association shall be responsible for all maintenance thereof except that each Owner of a Lot shall be responsible for maintaining the portion of the party wall or fence facing his Lot or the portion thereof which is not facing the Common Element, or Common Element Easement.

Section 5. Fire Protection Devices. All Owners who build a residence and related improvements on a Lot shall be required to install a smoke alarm system in all portions of the residential Lot. The smoke alarm system shall meet all specifications of the Architectural Review Committee and all specifications of Pima County and related fire protection entities.

**ARTICLE IX**  
Use Restrictions

Section 1. Single-Family Use. All Lots are hereby restricted to single-family residential use and customary accessory improvements or other improvements as the Architectural Review Committee shall deem appropriate. All buildings or structures erected upon said premises shall be of new construction, and no subsequent buildings or structures other than single-family residential improvements shall be built on any Lot. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building or storage shed shall be placed on any portion of the premises at any time as a residence or for any other purpose either temporarily or permanently, except upon prior written consent of the Architectural Review Committee. No structure of a temporary nature shall be used for living purposes during construction before it is completed.

Section 2. Rights of Declarant. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant and Developer to maintain such signs, construction equipment, and sales facilities on the Property as may be reasonably required, in the sole opinion of the Declarant, for the sale of Lots or homes, including without limitation, a business office, storage area, construction

yard, signs, model homes, and sales offices. Declarant and Developer shall have the right to assign these rights to any successor or assign.

Section 3.     Animals and Livestock.           No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, provided, however, that dogs, cats, or other household pets (in a reasonable number as determined by the Board of Directors of the Association) may be kept provided that they are not kept, bred, or maintained for any commercial purposes and provided they are not, in the opinion of the Board of Directors, a nuisance.

Section 4.     Debris.                    No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such Lot or any portion thereof, or activity thereon, unsanitary, unsightly, offensive, or detrimental to any other Lot in the Property or to the occupants of such other Lots. Woodpiles or other material shall be stored in a manner so as not to be attractive to native rodents, snakes, and other animals and to minimize the potential danger from fires. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other Lot in the Property or to its occupants.

Section 5.     Noise.                        No exterior speakers, horns, whistles, firecrackers, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot so as to create a nuisance in the Property.

Section 6.     Construction.           Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and adjacent areas of the Property shall be kept in a neat and tidy condition during construction periods. Trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber, and other building materials will be piled only in such areas as may be approved by the Architectural Review Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved by the Architectural Review Committee, which may also require screening of the storage areas. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

Section 7.     Garage Doors and Garage Conversions.     Garage doors shall be kept closed at all times, except as may be reasonably necessary for ingress, egress and normal day-to-day activities which require the utilization of the garage. Garages may not, under any circumstances, be converted into any type of living quarters (i.e., bedrooms, sun porch, family room, and so forth).

Section 8. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any Lot.

Section 9. Insects. No Owner shall permit any thing or condition to exist upon any Lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.

Section 10. Signage. No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on a Lot (except as stated above), nor shall the Property be used in any way or for any purpose which may endanger the health or safety or unreasonably disturb the Owner of any Lot or any resident thereof. However, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of the Declarant, Developer, its agents and assigns, during the construction and sale period, and signs required by legal proceeding under state law. It is herein expressly permitted for purposes of resale one sign per Lot, the style and size of which must be approved by the Architectural Review Committee. No other sign of any kind or design shall be allowed without prior written approval from the Architectural Review Committee.

Section 11. Screening. All equipment, including but not limited to utility meters and heating and cooling equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened to the satisfaction of the Architectural Review Committee by adequate planting or approved structural enclosure so as to conceal them from the View of Other Lots. All rubbish, trash, or garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon. No rubbish, trash, garbage, or landscape trimmings shall be deposited outside the perimeter wall of any Lot.

Section 12. Trash Pickup. The Board of Directors may require all Owners to subscribe to a trash pickup service if public trash pickup service is not available. Each Owner shall be solely responsible for the fees in connection with the service to each such Owner's Lot. Such trash pickup fees may be included in the Association assessment, at the discretion of the Board. In no event shall trash or trash containers be maintained so as to be visible from the Street or from any other Lot, except to make such available for trash pickup, and then only for the shortest reasonable time necessary to accomplish collection.

Section 13. Building Maintenance. No building or structure on any Lot shall be permitted to fall into disrepair and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 14. Antennas. Without prior written approval of the Architectural Review Committee, no exterior television or radio antennas or satellite dish or other reception device of any sort shall be placed, allowed, or maintained upon any Lot.



- Section 15. No Roof-Mounted Equipment. No apparatus, including without limitation, utility meters, evaporative coolers, antennas, satellite dishes, heating and cooling lots, shall be placed on the roof of any Lot. The locations for all such equipment must be approved by the Architectural Review Committee in its sole discretion. Any such equipment must be screened from View of Other Lots as the Architectural Review Committee may require.
- Section 16. Mineral Exploration. No Lot or any portion of the Property shall be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind, without prior written approval of the Architectural Review Committee and Board of Directors.
- Section 17. Recreational Vehicles. Boats, campers, trucks, trailers, motor homes, and recreational vehicles shall not be stored or parked upon a Lot or on Streets unless completely concealed within an enclosed garage. The requirement of this section shall not include vehicles of an Owner or Owner's guests when said Owner has been issued a temporary waiver in writing by the Board of Directors.
- Section 18. Vehicle Repair. All vehicles, boats, campers, trucks, trailers, motor homes, bicycles and recreational vehicles shall not be stored or parked upon a Lot or on Streets while in stages of construction, reconstructions, modification or rebuilding of parts of any such vehicle, such as frames, bodies, engines or other parts or accessories except for the repair or immediate repair of a vehicle regularly used by the homeowner, which repair shall not exceed two weeks in time. No inoperable vehicle may be stored or parked on any such Lot or Street so as to be visible from Other Lots or to be visible from Common Areas or Streets, provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs or repairs used exclusively in connection with construction as approved by the Architectural Review Committee.
- Section 19. Parking and Bicycle Storage. On-street parking will be restricted to streets Calle de la Humanidad and Paseo de la Comunidad and in common area designated for parking. Vehicles of all Owners, tenants, residents, and of their employees, guests, and invitees, shall be kept in carports, garages, or parked on residential driveways of the Owner wherever and whenever such facilities are sufficient to accommodate the reasonable number of vehicles at a Lot. Guest vehicles which do not fit in carports, garages or driveways shall be parked on streets Calle de la Humanidad and Paseo de la Comunidad or in the common areas designated for parking. Additionally, all bicycles, motorcycles, and so forth shall be stored in carports, garages or backyards so as not to be visible from the street or other Lots.

Section 20. Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Lot, any member of the Architectural Review Committee, any member of the Board, or any authorized representative of either of them, shall have the right in their official capacity to enter upon and inspect any Lot and the improvements thereon, except for the interior portions of any completed residence. This will be done for the purpose of ascertaining compliance with the provisions of this Declaration and Design Guidelines, and such persons shall not be deemed guilty of trespass by reason of such entry.

Section 21. Drainageways. Drainageways shall conform to the requirements of all lawful public authorities including the Pima County engineer to the full extent of the authority given such agency by law. No established drainage on the Property shall be altered in any way except upon approval of Pima County and the Architectural Review Committee.

Section 22. Resubdivision. No Lot subject to this Declaration shall be re-subdivided, except as approved by the Architectural Review Committee and Pima County.

Section 23. Grading and Fencing. Topography and grading of Lots shall be kept to a minimum to preserve natural vegetation. The grading of all Lots shall be limited to roads, driveways, and building envelopes. Building envelopes shall contain buildings, pools, and perimeter enclosures, and shall require approval of the Architectural Review Committee. Fencing is not permitted on portions of a Lot outside the building envelope, except as expressly permitted by the Architectural Review Committee.

Section 24. Utilities. No lines, wires, or other devices for the communication, reception, or transmission of microwaves or electric current or power, including telephone, television, and radio signals, shall be erected, placed, or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures unless approved by the Architectural Review Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures as approved by the Architectural Review Committee.

Section 25. Landscape Overhangs. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise encroach upon any sidewalk, Street, walkway, or other area from ground level to a height of eight (8) feet without the prior approval of the Architectural Review Committee.

Section 26. Rules and Regulations. The Board of Directors of the Association may make reasonable Rules and Regulations to be included as part of the ARC Design Guidelines for the purpose of ensuring the health, safety, and welfare of Owners and residents, and the protection of Property values.

**ARTICLE X**  
Easements

Section 1. Blanket Easement. There is created a blanket easement upon, across, over, and under the Property for installing, replacing, repairing, and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, electric, and cable television. By virtue of this easement, it shall be expressly permissible for each individual Owner or public service utility company or municipality to erect and maintain the necessary facilities, connections and other necessary equipment or lines in said Property, and to affix and maintain electrical and/or telephone or cable wires, circuits and conduits, or other connections above, across, and under the Lots, including the roof and exterior walls of each Lot. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer during the Development Period and approved by the Architectural Review Committee. This easement shall in no way affect any other recorded easements on said premises.

Section 2. Encroachment Easement. All Lots shall be, and are hereby declared to be, subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by Declarant and Developer, and also by any other original builder which has caused the construction in accord with plans approved by the Architectural Review Committee, and such action, in the sole opinion of Declarant, is de minimis in nature. A valid easement for said encroachments and for the maintenance of the same, so long as they stand, shall and does exist. Declarant shall have the right to record any notice of such easement as Declarant shall determine.

Section 3. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall attach to and shall pass with title to every Lot, subject to the provisions hereof.

## ARTICLE XI

### General Provisions

- Section 1.     Enforcement.           The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Notwithstanding the above, if there is a dispute as to enforcement of or interpretation of any portion of this document during the Development Period, the Declarant, or its designated agent, shall have sole authority to issue decision as to the dispute or interpretation. Any such decision shall be final and binding on all Owners of the Property.
- Section 2.     Severability.           Invalidation of any one of these covenants or restrictions by judgment of court order shall in no way affect any other provision which shall remain in full force and effect.
- Section 3.     Revocation and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

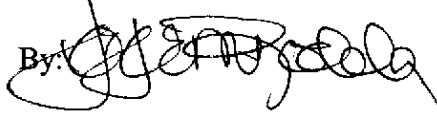
This Declaration shall not be revoked unless the Owners of seventy-five percent (75%) of all Lots consent and agree to such revocation by written instruments duly recorded. This Declaration shall not be amended, except as otherwise herein provided, unless the Owners of sixty-seven percent (67%) of the Lots consent and agree to such amendment by written instrument duly recorded. Any amendment to this Declaration may also be evidenced by a recorded certificate of the Secretary of the Association, certifying that, at a meeting of the Members duly called, the Owners of sixty-seven percent (67%) of the Lots consented to such amendment. Notwithstanding the foregoing amendment procedure, (a) the Declarant expressly reserves the right to amend this Declaration at any time prior to the termination of the Development Period and any such amendment shall be effective whether it applies uniformly or non-uniformly to the Property or any Lot, (b) no amendment shall be effective during the Development Period unless signed by Declarant, and (c) any such amendment signed by Declarant shall be effective whether or not such amendment shall impact any prior vested right of interest, whether resulting from Ownership of any portion of the Property or otherwise.

Section 4.     Disclosure and Transfer Fees.     The Board may authorize transfer fees and disclosure fees for the purpose of deferring the costs of labor and materials required to duplicate and distribute governing documents and to process title information. The Board and/or managing agent may collect these fees.

Section 5.     Interpretation.     If there is any conflict among or between this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, the ARC Design Guidelines, or the Rules and Regulations of the Association, the provisions of this Declaration shall prevail; thereafter, priority shall be given first to such Articles of Incorporation, then to such Bylaws, then to the ARC Design Guidelines, and then to such Rules and Regulations.

**IN WITNESS WHEREOF**, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 28 day of January, 2005.

LAWYERS TITLE OF ARIZONA, INC.,  
AN ARIZONA CORPORATION ("Trustee"), as  
Trustee under Trust No. 7756 - T .

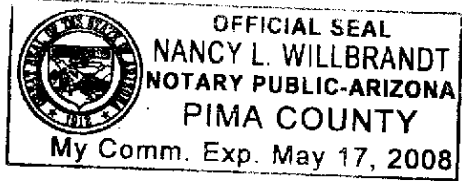
By: 

STATE OF ARIZONA     )  
  ) ss.  
COUNTY OF PIMA     )

The foregoing instrument was acknowledged before me this 28 day of Jan, 2005, by Joyce M. Rodda , as Assistant Vice President of Lawyer's Title of Arizona , Inc. an Arizona Corporation ("Trustee") , as Trustee under Trust No. 7756 - T .

Notary Public     *Nancy L. Willbrandt*

My Commission Expires:



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