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**SECOND REVISED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
TUCSON NATIONAL TOWNHOMES WEST**

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**SECOND REVISED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
TUCSON NATIONAL TOWNHOMES WEST**

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**SECOND REVISED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
TUCSON NATIONAL TOWNHOMES WEST**

RECITALS

WHEREAS, the property known as Tucson National Townhomes West and legally described as:

LOTS 1 thru 74 and LOTS A, B and C OF TUCSON
NATIONAL TOWNHOMES WEST, a subdivision of Pima
County, Arizona according to the plat recorded in Book 29 of
Maps and Plats at Page 3 in the Office of the Recorder for
Pima County, Arizona and the amended plat recorded in Book
34 of Maps and Plats at Page 77 in the Office of the Recorder
for Pima County, Arizona ("Property")

is bound by that certain Revised and Restated Declaration of Covenants, Conditions, and Restrictions of Tucson National Townhomes West, Inc. recorded at Book 7504 at Page 900 in the Office of the Recorder for Pima County, Arizona, as amended by the First Amendment to Revised and Restated Declaration of Covenants, Conditions, and Restrictions of Tucson National Townhomes West recorded in Docket 9988 at Page 1625 in the Office of the Recorder for Pima County, Arizona, the Second Amendment to Revised and Restated Declaration of Covenants, Conditions, and Restrictions of Tucson National Townhomes West, Inc. recorded at Docket 10505 at Page 1528 in the Office of the Recorder for Pima County, Arizona and the Third Amendment to Revised and Restated Declaration of Covenants, Conditions, and Restrictions of Tucson National Townhomes West, Inc. recorded at Docket 12215 at Page 2620 (collectively, the "First Revised Declaration").

WHEREAS, the First Revised Declaration, in Article VIII, Section 8.02, states that its provisions may be amended at a duly-held meeting upon the affirmative vote of Owners representing at least a majority of the Lots in the Property.

NOW, THEREFORE, Owners representing at least a majority of the Lots within the Property approved this Second Revised and Restated Declaration of Covenants, Conditions and Restrictions of Tucson National Townhomes West, the terms and provisions of which shall supersede the First Revised Declaration and run with the Property and be binding upon all parties having or acquiring any right, title or interest in or to any part of the Property.

ARTICLE I DEFINITIONS

Section 1.1. Architectural Committee. "Architectural Committee" shall mean the committee charged with enforcing the provisions of Article IV, Section 10. The Board may serve as the Architectural Committee or may appoint a committee consisting of no less than three (3) Owners (who may or may not be directors) to serve in such capacity.

Section 1.2. Assessments. "Assessments" shall mean Annual , Special and Individual Assessments as set forth in Article III including late charges, reasonable collection costs and attorney's fees and costs incurred in collection of same.

Section 1.3. Association. "Association" shall mean the Tucson National Townhomes West, Inc., an Arizona nonprofit corporation, the members of which shall be Owners of Lots within the Property.

Section 1.4. Board. "Board" shall mean the Association's board of directors elected by the Association's members.

Section 1.5. Association Rules. "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to Article II, Section 2.8, as such rules and regulations may be amended from time to time.

Section 1.6. Common Area. "Common Area" shall mean the real property depicted as LOTS "A", "B" and "C" on the Plat, including the improvements thereon, and any other real or personal property owned by the Association now or in the future.

Section 1.7. Declaration. "Declaration" shall mean this Second Revised Declaration of Covenants, Conditions and Restrictions of Tucson National Townhomes West as same may be amended from time to time.

Section 1.8. Lot. "Lot " refers to any separately numbered plot of land designated as a lot on the Plat and the improvements thereon.

Section 1.9. Mortgage. "Mortgage" means any mortgage, deed of trust or other security instrument by which a Lot or any part thereof is encumbered.

Section 1.10. Owner. "Owner" refers to the record owner, whether one or more persons or entities, of the fee simple title to any Lot except such persons holding an interest in a Lot merely as security for the performance of an obligation.

Section 1.11. Plat. "Plat" refers collectively to the plat for Tucson National Townhomes West recorded in Book 29 of Maps and Plats at Page 3 in the Office of the Recorder for Pima County, Arizona and the amended plat recorded in Book 34 of Maps and Plats at

Page 77 in the Office of the Recorder for Pima County, Arizona.

Section 1.12. Property. "Property" and "Subdivision" shall be synonymous and shall refer to that certain real property described as follows:

LOTS 1 thru 74 and LOTS A, B and C OF TUCSON NATIONAL TOWNHOMES WEST, a subdivision of Pima County, Arizona according to the plat recorded in Book 29 of Maps and Plats at Page 3 in the Office of the Recorder for Pima County, Arizona and the amended plat recorded in Book 34 of Maps and Plats at Page 77 in the Office of the Recorder for Pima County, Arizona.

Section 1.13. Visible from Neighboring Properties. "Visible from Neighboring Properties" means, with respect to any object, that such object is or would be visible by a person six (6) feet tall standing on any part of a Lot or any Common Area at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE II ASSOCIATION; MEMBERSHIP; VOTING

Section 2.1. Association. The Association shall be an Arizona nonprofit corporation and shall have all of the common law and statutory powers conferred upon nonprofit corporations and planned communities under Arizona law and all powers necessary or desirable to perform the Association's duties and obligations and to exercise the rights and powers of the Association set forth in this Declaration, the Association Rules, the Association's Articles of Incorporation and the Association's Bylaws. The Association may exercise any right or privilege given to the Association expressly by its governing documents or Arizona law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by its governing documents or Arizona law reasonably necessary to effectuate any such right or privilege. The Association shall be responsible for maintaining the Common Area and may do such other acts as may be necessary or advisable to carry out the provisions of this Declaration and/or to promote the health, safety and welfare of the Owners.

Section 2.2. Board of Directors. The affairs of the Association shall be conducted by a board of directors whose qualifications and terms shall be as provided in the Association's Articles of Incorporation and Bylaws. Unless this Declaration, the Association's Articles of Incorporation, or the Association's Bylaws specifically requires the vote or consent of the Owners, the Board may do or cause to be done any act on behalf of the Association.

Section 2.3. Personal Liability. No director or officer of the Association, and no other person acting on behalf of the Board shall be personally liable to any Owner or to any other person for any damage, loss or prejudice suffered or claimed on account of any act,

omission, error, or negligence in the discharge of such person's duties and responsibilities under this Declaration provided such person acted in good faith.

Section 2.4. Indemnification. To the fullest extent permitted by law, every director, officer, and committee member shall be indemnified by the Association, and 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.

Section 2.5. Identity of Association Members. An Owner of a Lot, upon becoming the Owner thereof, shall automatically be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. The rights and obligations of any Association member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of the Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a Mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Association membership appurtenant to said Lot to the new Owner thereof. Each purchaser of a Lot shall notify the Association of such purchase within ten (10) days after he becomes an Owner.

Section 2.6. Voting Rights. Subject to the provisions set forth in Section 2.7 of this Article, each Owner shall be entitled to vote on all matters subject to a vote of the Association's members; provided, however, that there shall be one (1) vote for each Lot. The vote for each Lot must be cast as a unit and fractional votes shall not be allowed. In the event that a Lot is owned by more than one person and such owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he/she was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast for a particular Lot, none of the votes shall be counted and all of the votes for such Lot shall be deemed void.

Section 2.7 Suspension of Rights.

A. **Mandatory Suspension.** An Owner's right to vote shall be suspended during any period of time that such Owner is delinquent in the payment of any Assessment.

B. **Discretionary Suspension.** In addition to all other remedies provided for in this Declaration, at law or in equity, and after providing notice and an opportunity to be heard, the Association may suspend an Owner's right to vote and/or his right to use recreational

facilities within the Common Area for any breach of this Declaration or infraction of the Association Rules; provided, however, that such suspension shall not exceed a period of sixty (60) days or until such breach is cured, whichever is greater.

Section 2.8. Association Rules. The Board may adopt, amend, and repeal rules and regulations governing the Common Area and the conduct of Owners and their guests thereon, and, consistent with this Declaration, defining, clarifying, and/or providing procedures related to any provision of this Declaration.

Section 2.9 Transfer of Common Area. The Common Area may not be alienated, released, leased, transferred, hypothecated or otherwise encumbered without the affirmative vote of Owners representing at least two-thirds (2/3) of the Lots; provided, however, that the Association, without a vote of the Owners, may grant and convey to any person or entity easements or rights of way in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder (i) roads, streets, walks, pathways, driveways, parkways, and park areas; (ii) temporary overhead or permanent underground lines, cables, wires, conduits or other devices for the transmission of utilities and other purposes; and (iii) sewers, storm drains and pipes, water systems, and water, heating and gas lines or pipes; and (iv) any similar public or quasi-public improvements or facilities.

ARTICLE III ASSESSMENTS

Section 3.1. Annual Assessments. Annual Assessments shall be levied each calendar year based on a budget prepared by the Board at least thirty (30) days prior to the end of the preceding calendar year. Annual Assessments shall be levied against each Lot equally in such amounts and payable in such installments as the Board shall determine. Annual Assessments shall be used to pay the operating expenses of the Association, to provide for such reserves as the Board, in its sole discretion, shall determine, to promote the health, safety and welfare of the Owners, to maintain the Common Area, to discharge the Association's duties under this Declaration and other agreements to which the Association is a party, and, at the discretion of the Board, to provide cable service and security alarm monitoring service to the Lots regardless of whether Owners avail themselves of such services. Annual Assessments may be increased each calendar year in conformance with A.R.S. § 33-1803 and in the event of an increase or decrease in the Annual Assessment, written notice thereof shall be sent to each Owner.

Section 3.2. Special Assessments. Special Assessments may be levied in any Assessment year against for the purpose of defraying, in whole or in part, the cost of any maintenance, construction, reconstruction, repair or replacement of the Common Area, or to defray any unanticipated or underestimated expense normally covered by Annual Assessments upon the affirmative vote of at least two-thirds (2/3) of Owners entitled to vote and voting at a meeting duly held for such purpose.

Section 3.3. Individual Assessments. An Individual Assessment shall be levied against a Lot for the following purposes:

A. to reimburse the Association for expenditures incurred in repairing, replacing, or restoring any Common Area damaged as a result of the negligent or intentional conduct of such Lot's Owner, his guests, tenants, invitees, or licensees;

B. to reimburse the Association for costs associated with taking corrective action on the Lot to bring it into compliance with the Declaration pursuant to Article IV, Section 4.11(A); and

C. to reimburse the Association for attorney's fees and related expenses incurred by the Association pursuant to Article VII, Section 7.3.

Section 3.4. Effect of Nonpayment of Assessments. All Assessments (including late fees, reasonable costs of collection and attorney's fees incurred in collection) shall be the personal obligation of each Owner and shall constitute a lien against such Owner's Lot. An Assessment levied upon a Lot which remains unpaid after thirty (30) days after such Assessment becomes due (as established by the Board) shall be deemed delinquent and subject to a late fee of \$15.00 or ten percent (10%) of the unpaid Assessment, whichever is greater. In the event of a delinquency in the payment of any Assessment, the Association may, but shall not be required to, make a written demand for payment upon the defaulting Owner and/or record a "Notice of Lien" on behalf of the Association against the defaulting Owner's Lot. The Association's lien may be foreclosed by appropriate action in the manner provided by law for the foreclosure of a Mortgage. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot which is so foreclosed. In the event such foreclosure is by action in court, reasonable attorney's fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner hereby expressly waives any and all rights and claims such Owner may have in and to any Lot owned by such Owner as a homestead exemption or other similar exemption; provided, however, that such waiver shall be applicable only in case of action to foreclose an Assessment lien.

Section 3.5. Subordination of Lien. The Association's lien for Assessments shall be subordinate to the lien of any first Mortgage. The sale or transfer of any Lot pursuant to a foreclosure of a first Mortgage or any proceeding in lieu thereof (such as a sale under a power of sale or a deed in lieu of foreclosure) shall extinguish the Association's lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve any Lot from liability for any Assessments thereafter becoming due or from the Association's lien therefor.

Section 3.6. No Exemption. No Owner may exempt himself from the liability for Assessments by waiver of the use or enjoyment of the Common Area or by the

abandonment of his Lot.

Section 3.7. Joint and Several Liability. In a voluntary conveyance of any Lot, the grantee of such Lot shall be jointly and severally liable with the grantor for all unpaid Assessments levied by the Association against the grantor without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Association setting forth the amount of the unpaid Assessment against the grantor due to the Association, and such grantee shall not be liable for any unpaid Assessments made by the Association against the grantor in excess of the amount therein set forth.

ARTICLE IV USE RESTRICTIONS

Section 4.1. Residential Purposes. An Owner or occupant of a Lot may operate a home occupation or workshop ("Activity") as long as it complies with the following:

- A. The existence or operation of the Activity is not apparent by sound, sight or smell from outside of the Lot;
- B. The Activity conforms to all zoning requirements for the Property;
- C. The Activity does not involve frequent or annoying traffic by persons coming on the Property who do not reside therein or door-to-door solicitation of residents in the Property;
- D. The Activity is consistent with the residential character of the Property and does not constitute a nuisance or hazard, nor threaten the security, safety or well being of other residents of the Property;
- E. No Activity may involve heavy equipment or machinery, manufacturing, drilling, burning, or conversion of any garage into a business office or room except with the prior written approval of the Board; and
- F. No Activity may result in any change in the exterior appearance of the Lot or involve signs, buildings, or structures in addition to the residence.

Section 4.2. Nuisances. No rubbish or debris of any kind shall be allowed to accumulate or be placed on any Lot so as to render the Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to other occupants within the Property, and no noise, condition, or activity shall exist on any Lot which is or may be unsightly, offensive or detrimental to other residents within the Property. The Board shall have the right to determine, in its sole discretion, whether any act or condition on a Lot constitutes a nuisance, including an Owner's failure to maintain his Lot and the improvements thereon in a neat and attractive condition. Any violation of a federal, state or municipal law shall be deemed a nuisance.

Section 4.3. Parking; Vehicles.

A. Parking. No vehicle may be parked on the street overnight. Overnight parking of vehicles is limited to driveways, enclosed garages and such areas as may be designated as "guest parking" by the Board of Directors. The Board of Directors may promulgate Association Rules that further limit or restrict parking on the streets.

B. Recreational Equipment; Trucks. No trailer, camper, mobile home, commercial vehicle (other than a vehicle exempted under A.R.S. §33-1809 or which has signs or markings that the Board determines are unobtrusive), pick-up truck with a capacity exceeding one (1) ton, boat or similar vehicle or equipment shall be permitted on any portion of the Property other than in an enclosed garage except temporarily (less than twenty-four (24) hours) for the limited purpose of loading and unloading passengers or property or in connection with work being performed upon a Lot or Common Area. No noisy, smoky or off-road vehicles (excluding SUV's used as passenger vehicles) shall be operated on the Property except as may be reasonably necessary for the performance of the Association's maintenance responsibilities under this Declaration.

C. Repairs; Inoperable Vehicles. No vehicle may be repaired other than in an enclosed garage except for emergency work or minor repairs requiring less than one day's work. No inoperable or unregistered vehicle may remain on any portion of the Subdivision that is Visible from Neighboring Properties.

Section 4.4. Signs; Mailboxes. No signs shall be erected, placed or permitted to remain on any Lot except for (i) one "for sale" sign (no larger than 18" by 24" with one rider not exceeding 6" by 24"); (ii) political signs as set forth in A.R.S. §33-1808; (iii) such signs as are required by legal proceedings; and (iv) such signs as are approved in writing by the Board. The Board may determine the location, color, size, design, lettering and all other particulars of all mail and paper delivery boxes.

Section 4.5. Animals. No animals, including but not limited to horses, livestock, poultry, or bees, shall be kept or maintained on any Lot; provided, however, that a reasonable number of dogs, cats, fish and other household pets may be kept on a Lot so long as such pets are not kept for commercial purposes, do not make objectionable noises and are not kept in such number or manner as to otherwise cause a nuisance or inconvenience to any residents within the Subdivision and are kept in compliance with all existing applicable local ordinances. The Board shall have the right to determine, in its sole discretion, whether certain household pets, their number, or the manner in which they are kept constitute a nuisance on any Lot and may require the Lot's Owner to remove such pets from the Lot.

Section 4.6. Trash. All rubbish, trash and garbage shall be kept in sanitary containers and regularly removed from the Lots. Trash containers shall be maintained so as not to be Visible from Neighboring Properties except when placed out for collection and then only for such time as is reasonably necessary to affect such collection. The Association, at the discretion of the Board, may contract with a trash collection service for the benefit of all of

the Lots within the Property in which case the cost thereof shall become part of the Annual Assessment levied against each Lot.

Section 4.7. Unsightly Articles; Window Coverings; Sports Equipment. Wood piles, storage piles, and equipment shall be kept in such a manner so as not to be Visible from Neighboring Properties, and Owners shall keep garages neat, clean and free from clutter, debris or unsightly articles. No exterior clotheslines, outside laundering or drying of clothes, or storage of personal items shall be permitted on any patio or yard area of a Lot. No kind of foil or darkening screen shall be placed upon the windows of any residence on a Lot except with the prior written approval of the Architectural Committee. No sports equipment (including, but not limited to, basketball hoops) may be attached to or installed on any improvement on a Lot. Subject to the provisions of Section 4.2, portable sports equipment may be used so long as such equipment is not Visible from Neighboring Properties.

Section 4.8. Antennas and Satellite Dishes. No exterior antenna or other device for the transmission or reception of television, radio or other signals (except television antennae and fixed wireless devices that are one (1) meter or less in diameter) shall be erected or maintained on any Lot without the Association's prior written approval. Television antennae and fixed wireless devices that are one (1) meter or less in diameter should be installed so as not to be Visible from Neighboring Properties and should be painted to match the improvements on the Lot (if such painting does not void the device's warranty) so long as an acceptable signal can be obtained.

Section 4.9. Party Walls. The rights and duties of Owners with respect to any fence or wall placed upon the dividing line between two (2) Lots ("Party Wall") are as follows:

A. Each Owner of a Lot with a Party Wall will assume the burden and be entitled to the benefits recited in this Section and, to the extent it is consistent with this Section, the general rules of law regarding party walls will be applied;

B. Each Owner of a Lot with a Party Wall will have reciprocal easements for support and an equal right to use such Party Wall provided that the use by one Owner does not interfere with the use and enjoyment of the Party Wall by the other Owner;

C. Unless other provisions of this Section are applicable, the costs of reasonable repair and maintenance of a Party Wall will be shared equally by the Owners sharing the Party Wall. In the event any Party Wall is damaged or destroyed through the act of one adjoining Owner, or any of the Owners' family, guests, tenants, (whether or not such act is negligent or otherwise culpable) so as to deprive the other Owner of the full use and enjoyment of such Party Wall, then the first of such Owners shall rebuild and repair the Party Wall to its former condition without cost to the other Owner;

D. In the event any Party Wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his/her agents, guests or family, including ordinary wear and tear and deterioration from lapse of time, then in such event, both

Owners will promptly rebuild or repair the Party Wall to its former condition the cost of which shall be equally shared by the Owners;

E. Any Owner proposing to modify, make additions to or rebuild his Lot or any improvement thereon in any manner which requires the extension or other alteration of any Party Wall shall first obtain the written consent of the Board which consent shall not be granted unless the Board has received the written consent of the Owner sharing such Party Wall;

F. In the event of a dispute between Owners sharing a Party Wall, the dispute shall be submitted to the Board and its decision will be binding upon such Owners.

Section 4.10. Architectural Control. No building, fence, wall or other structure may be commenced, erected, or placed on or removed from any Lot nor shall any excavation, construction, or alteration, which in any way alters the exterior appearance of any Lot (including, but not limited to, exterior painting in a different color, landscaping, pool/spa installation, awnings, screens, or HVAC equipment), be done until the plans and specifications showing the nature, kind, shape, height, materials and location of same have been submitted to and approved in writing by the Architectural Committee. In deciding whether to approve plans, the Architectural Committee may take into consideration quality of workmanship, design and harmony of external design with existing structures and location in relation to surrounding structures, topography, finished grade elevation, and aesthetic considerations. In the event the Architectural Committee fails to approve or disapprove any plans and specifications within thirty (30) days after their submission, approval will not be required and the requirement of this Section will be deemed to have been met; provided, however, that in the event the Architectural Committee shall notify the requesting Owner in writing within such time period that it is necessary to obtain independent advice from a licensed architect or other professional consultant, then the Architectural Committee must approve or disapprove said plans within sixty (60) days of the Owner's submission of same or approval will be deemed granted.

The Architectural Committee may, from time to time, adopt, repeal and amend architectural guidelines governing the Lots in order to establish standards and procedures including, but not limited to, construction requirements, landscaping requirements, architectural review fees, and guidelines concerning the style and design of any improvements and/or landscaping for the purpose of protecting, enhancing, and maintaining the residential atmosphere and harmony of the Subdivision. Any architectural guidelines duly adopted by the Architectural Committee pursuant to this Section shall have the same force and effect as the provisions of this Declaration.

Neither the Association nor any member of the Architectural Committee shall be liable in damages to anyone submitting plans for approval by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with (a) the approval, disapproval, or failure to approve any plans, drawings or specifications, whether or not defective; or (b) the construction or performance of any work, whether or not pursuant to

approved plans, drawings and specification. Anyone submitting plans to the Architectural Committee for approval, and any Owner acquiring title to any Lot covered by this Declaration, waives his claim for any such damages.

Section 4.11. Maintenance.

- A. By Owner. An Owner shall maintain, repair and/or replace:
- (i) The residence and other improvements located on his/her Lot, including, but not limited to all perimeter walls, exterior lighting fixtures, mechanical systems and equipment, and all electrical, sewer, water, and gas lines from the point at which such lines enter the boundary of the Lot; and
 - (ii) Landscaping on his/her Lot except in the front yard (for purposes of this Section 4.11, the "front yard" shall be defined as those portions of a Lot not enclosed by perimeter walls).

The Board, in its sole discretion, shall determine whether or not a Lot is in need of maintenance, repair, replacement or other upkeep in order to conform to the standards of the Property and the Board shall use a reasonably high standard to make such determination so that the Lots and improvements thereon will reflect a high pride of ownership. The Association, or its duly authorized agent, shall be authorized to enter a Lot (without being deemed guilty of any trespass) to perform maintenance or correct any violation of this Declaration provided that the Association first gives the breaching Owner written notice of the offending condition and a date by which corrective action must be taken (no less than ten (10) nor more than thirty (30) days from the date of the notice) and the Owner fails to perform such maintenance or correct such violation within such time. The cost of any maintenance or corrective action taken by the Association in conformance with this Section, including attorney's fees incurred in connection therewith, shall be the personal obligation of the breaching Owner and constitute an Individual Assessment against such Owner's Lot.

- B. By Association. The Association shall maintain, repair, and/or replace:
- (i) The land, buildings, improvements, fixtures, systems and equipment installed on or located within and servicing the Common Area; and
 - (ii) Landscaping in the front yard of each Lot (including, but not limited to, irrigation lines for such landscaping); provided, however, that the Board, in its sole discretion, shall determine the nature and extent of landscape maintenance and replacement.

The Association or its agents may enter any Lot to perform its responsibilities under this Section after providing reasonable notice (which may be provided by a routine maintenance schedule established by the Board) or, in the event of an emergency where

such notice would be impractical, without notice, and with as little inconvenience to the Owner or occupants of the Lot as practicable. No Owner or occupant of any Lot shall do any act or create any obstruction which would unreasonably interfere with the Association's maintenance responsibilities nor shall an Owner take any unauthorized action which would increase the Association's maintenance obligations hereunder. The Board, in its sole discretion, shall determine the nature and extent of the maintenance, repair and replacement required under this Section.

Section 4.12. Leasing. Owners shall have the absolute right to lease their Lots; provided, however, that Lots shall not be leased for hotel purposes which shall be defined as any rental in which the lessees are provided customary hotel service such as room service for food and beverages, maid service, laundry and linen service and/or bellboy service. Owners shall be liable for violations of this Declaration and/or the Association's Rules by the Owner's lessee(s), the lessee's guests and the lessee's invitees, and in the event of any such violation, the Owner, upon demand of the Association, shall immediately take all necessary actions to correct any such violations.

Section 4.13. Landscaping in Common Areas and Front Yards of Lots. Except with the prior written approval of the Board, the native growth and planting on all Common Areas and the front yards of Lots shall not be harmed, destroyed, or removed and no landscaping shall be installed in the Common Area or front yards of Lots without the prior written permission of the Board.

Section 4.14. Right of Inspection. During reasonable hours and with reasonable notice, any member of the Board, or any authorized representative of the Association shall have the right to enter upon and inspect the exterior of any Lot, without being deemed guilty of a trespass, for the purpose of determining whether the Lot is in compliance with this Declaration.

ARTICLE V INSURANCE; DESTRUCTION OF PROPERTY

Section 5.1. Insurance by Association. The Association shall purchase and maintain certain insurance, including, but not limited to, the following:

A. **Multi-Peril.** A multi-peril type policy covering the Common Area and the improvements thereon, providing, at a minimum, fire and extended coverage and all other coverage in the kind and amounts customarily acquired or required for projects similar in constructions, location and use.

B. **Liability.** A comprehensive policy of public liability insurance covering the Common Area and the portions of the Lots that the Association is required to maintain in the kind and amounts customarily acquired or required for projects similar in construction, location and use, but in no event in an amount less than \$1,000,000.00 per occurrence for personal injury, death or property damage.

C. Directors and Officers. Liability insurance covering all directors and officers of the Association in such limits as the Board may determine from time to time.

D. Additional Association Insurance. The Association may purchase such other insurance as it may deem necessary, including without limitation, workmen's compensation and fidelity coverage against dishonest acts by directors, managers, trustees, employees or volunteers of the Association who are responsible for handling funds belonging to or administered by the Association. The fidelity insurance shall name the Association as the insured and shall provide coverage in an amount not less than one and one-half (1½) times the Association's estimated annual operating expenses and reserves.

Section 5.2. No Liability. Neither the Association nor any board member shall be liable to any Owner or other person if any risks or hazards are not covered by the Association's insurance policies or if the amount of any Association insurance policy is not adequate.

Section 5.3. Insurance by Owner. It shall be the responsibility of each Owner to provide as the Owner sees fit, at his own expense, insurance for his Lot against loss or damage by fire or other hazards, liability, theft and other insurance covering personal property damage and loss.

Section 5.4. Damage or Destruction.

A. Lots. In the event of damage or destruction to any Lot or the improvements thereon due to fire or other adversity or disaster, the Owner thereof shall promptly repair and restore the Lot to substantially the same condition as existed prior to such damage or destruction as soon as reasonably practicable.

B. Common Area.

(i) In the event of damage or destruction of any Common Area due to fire or other adversity or disaster, the Association shall promptly repair, replace and rehabilitate all structures and things damaged or destroyed to a condition substantially similar to their prior condition to the extent practicable, and any insurance proceeds payable from policies procured by the Association on account of any loss or damage to Common Area shall be used to defray the cost of such loss or damage. Should insurance proceeds be insufficient or fail to cover the loss, repairs or replacements shall be effected and paid by levying a Special Assessment against all Lots to restore or rebuild said improvements.

(ii) In the event of damage or destruction of any Common Area due to the negligence of willful conduct of an Owner, his lessees, guests or invitees, the Association shall promptly repair, replace and rehabilitate all structures and things damaged or destroyed to a condition substantially similar to their prior condition to the extent practicable and the cost thereof, including any attorney's fees incurred in connection therewith, shall be the responsibility of such Owner and shall constitute an Individual Assessment against his Lot.

ARTICLE VI EASEMENTS

Section 6.1. Association Easement Over Lots. The Association (and its agents and employees) shall have the right, after reasonable notice to an Owner and at reasonable hours, to enter upon such Owner's Lot for the purpose of performing the Association's maintenance responsibilities under this Declaration, or for any other purpose reasonably related to the Association's rights and duties under this Declaration.

Section 6.2. Easement for Utilities and Maintenance. There is a blanket easement upon, across, over and under the Property for the installation, repair and maintenance of roads, walkways, sanitary sewer installations, water, electric, gas, cable lines, telephone lines, drainage facilities, and similar public or quasi-public improvement or facilities. No utility or service line may be installed or relocated on the Property unless approved in writing by the Board.

Section 6.3. Easement for Encroachments. Each Owner has an easement over all adjoining Lots and the Common Area for the purpose of accommodating any encroachment of an improvement due to engineering errors, errors in original construction, settlement, shifting of buildings, or any other similar cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligation of an Owner to maintain and repair the improvement shall not be altered in any way by said encroachment, provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful misconduct of said Owner. In the event a Lot is partially or totally destroyed and then repaired or rebuilt, minor encroachments over adjoining Lots or Common Area shall be permitted and there shall be a valid easement for the maintenance of said encroachments so long as they shall exist.

Section 6.4. Common Utility Right. Whenever sanitary sewer, water, electric, gas, television, telephone, or other utility connections or lines located on a Lot serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as service his Lot. In the event of any dispute between the Owner with respect to the repair or reconstruction of such connections or lines, the matter will be submitted to the Board and its decision shall be final and binding on the parties.

Section 6.5. Right to Use and Enjoyment of Common Area. Each Lot Owner shall have, appurtenant to his Lot, a nonexclusive right to use the Common Area in accordance with the purposes for which it is intended without hindering the exercise of or encroaching upon the right of any other Lot Owners and subject to rules and regulations promulgated by the Association relating thereto and the provisions of Article II, Section 2.7(B). Each Owner may delegate his right of enjoyment in the Common Areas as set forth above to his lessees or other occupants of his Lot.

Section 6.6. Owner's Easement Over Lots for Repairs. In the event of damage to or destruction of any portion of a Lot or Party Wall, the Owner thereof shall have an easement of reasonable access into any adjacent Lot upon reasonable notice to the adjacent Lot owner for purposes of performing repairs or reconstruction to the Lot or Party Wall required under this Declaration.

ARTICLE VII MISCELLANEOUS PROVISIONS

Section 7.1. Term and Amendments. This Declaration shall run with the Property and continue and remain in full force and effect at all times and against all persons; provided, however, that this Declaration may be amended at any time by the affirmative vote or written consent of Owners representing a majority of the Lots. Any amendment to this Declaration approved by the Owners shall be executed by the President and Secretary of the Association, who shall certify that the amendment was made in accordance with this Section, and shall become effective when recorded in the official records of Pima County, Arizona.

Section 7.2. Management Agreements. All administrative obligations of the Association set forth in this Declaration may be delegated to a managing agent under a management agreement. Any agreement for professional management or any other contract providing for similar services shall provide for termination by the Association with or without cause upon no more than thirty (30) days' written notice.

Section 7.3. Effect of Breach; Attorney's Fees. The Association and any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions and restrictions now or hereafter imposed by provision of this Declaration. The Association may impose reasonable monetary penalties against an Owner for any breach of this Declaration or Association Rules after providing the Owner with notice and an opportunity to be heard regarding the breach. In the event the Association employs an attorney for collection of any Assessment, or to enforce compliance with or specific performance of the terms and conditions of this Declaration or the Association's Rules, or for any other purpose in connection with the breach of this Declaration or the Association's Rules, whether by suit or otherwise, each Owner agrees to pay all attorneys' fees and costs thereby incurred by the Association in addition to any other amounts due or any other relief or remedy obtained against said Owner. Such attorneys' fees and costs shall be the personal obligation of the breaching Owner and shall constitute an Individual Assessment upon such Owner's Lot.

Section 7.4. Conflicts. In the event of any conflict between this Declaration, the Articles of Incorporation or the Bylaws of the Association, this Declaration shall control. In the event of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 7.5. Interpretation. Except for judicial construction, the Board shall have the

exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction and/or interpretation of the provisions this Declaration shall be final, conclusive, and binding as to all persons and property benefitted or bound hereby.

Section 7.6. Waiver. Failure of the Association, or any Owner to enforce any of the provisions of this Declaration shall not constitute a waiver of the right to enforce such provisions of this Declaration thereafter.

Section 7.7. Mortgage Protection. Notwithstanding any other provision of this Declaration, no amendment to this Declaration will operate to defeat and render invalid the rights of the beneficiary under any Mortgage upon a Lot made in good faith for value and recorded prior to the recording of such amendment, provided that after the foreclosure of any such Mortgage, such Lot will remain subject to this Declaration as amended.

Section 7.8. Severability. Each provision of this Declaration will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof will not affect the validity or enforceability of any other provision.

Section 7.9. Singular Includes Plural. Unless the context requires a contrary construction, the singular will include the plural and the plural the singular, and the masculine, feminine or neuter will each include the others.

Section 7.10. Captions and Titles. All captions, titles, and headings of the Articles and Sections set forth in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify, or otherwise affect any provision hereof or to be used in determining the intent or context thereof.

Section 7.11. Binding Effect. By accepting a deed or acquiring any ownership interest in any Lot, each person, for himself, his heirs, his personal representatives, his successors, his transferees and his assigns, binds himself, his heirs, his personal representatives, his successors, his transferees and his assigns to all of the provisions in this Declaration which shall run with the land.

Section 7.12. Guarded Entry. Access to the Property shall be through a guarded entryway maintained and operated by Omni Tucson National Resort ("Omni"), its successors and assigns. The Association shall maintain an agreement with Omni for purposes of obtaining said entry guard services and for such other services related thereto that the Board deems advisable including, but not limited to, maintenance of the entryway and additional security features ("Agreement"), the cost of which shall be paid equally by Owners as part of the Annual Assessment to which each Lot is subject. Each Owner, by acceptance of a deed for his Lot, acknowledges that the guarded entryway shall be a mandatory service which shall not be discontinued or amended except as otherwise provided in the Agreement and no Owner may exempt himself from the obligation to pay his portion of the Assessment for such services. Each Owner shall abide by reasonable non-discriminatory rules and

regulations as established by Omni for the use and operation of the entryway.

7.13 Dispute Resolution. In the event of a dispute between an Owner and the Association, its directors or officers, such Owner, as an absolute condition precedent to instituting legal action against the Association, its directors or officers, must first serve the Association with written notice, by certified U.S. mail, return receipt requested, of the alleged grievance, the action or results desired, and at least two (2) dates and times convenient for a meeting which dates shall be no less than ten (10) days from the date of the notice. The Association shall hold such meeting at a mutually convenient date and time that is no more than thirty (30) days from receipt of such notice for the purpose of arriving at a settlement of the dispute.

IN WITNESS WHEREOF, the undersigned certifies that this Second Revised Declaration of Covenants, Conditions and Restrictions for Tucson National Townhomes West was approved by the affirmative vote of Owners representing at least a majority of the Lots at the annual meeting held on February 25th, 2010 at which a quorum was present.

TUCSON NATIONAL TOWNHOMES WEST, INC.,
an Arizona nonprofit corporation

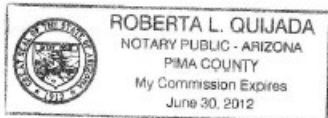
By: *Daniel Estun*
Its: President

STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

This instrument was acknowledged before me this 4 day of March,
2010, by Roberta L. Quijada for the purposes stated herein.

Roberta L. Quijada
Notary Public

My Commission Expires: 6/30/2012



NOTARIES.COM

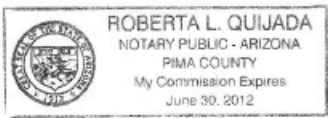
By: Claire Williams
Its: Secretary

STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

This instrument was acknowledged before me this 4 day of March,
2010, by Roberta L Quijada for the purposes stated herein.

Roberta L Quijada
Notary Public

My Commission Expires: 6/30/2012



WILLIAMS 0107-1004