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2007 UPDATED

**DECLARATION OF ESTABLISHMENT OF
COVENANTS, CONDITIONS & RESTRICTIONS
(CC&Rs)**

OF

VIEWPOINT HOMEOWNERS ASSOCIATION, INC.

An Arizona Nonprofit Corporation

**A portion of Colonia de los Alamos per map recorded in Book 34 at Page 51 of
Maps and Plats, and re-recorded in Book 304 at Page 57 of Maps and Plats in the
Office of the County Recorder, Pima County, Arizona.**

Supersedes and replaces all previous Viewpoint Declaration/CC&Rs

ARIZONA RECORDING

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-NONION BONDING

DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS & RESTRICTIONS (CC&Rs)

RECITALS

1. On July 19, 1973, Title Guaranty Agency of Arizona, Inc., as Trustee under Trust No. T-1024, executed a Declaration of Establishment of Covenants, Conditions & Restrictions for a portion of Colonia de los Alamos, which document was recorded in the Office of the Pima County Recorder in Book 7077 at pages 355 through 361, and is hereinafter referred to as the "Declaration," establishing a general plan for the improvement, ownership, and sale of:

Lots 1 thru 20 of Block 11; Lots 1 thru 12 of Block 12; Lots 1 thru 12 of Block 13; Lots 1 thru 21 of Block 14; Lots 1 thru 37 of Block 15; all in the Resubdivision of COLONIA DE LOS ALAMOS, commonly known as VIEWPOINT, per map recorded in Book 34, Page 51 of Maps and Plats, in the Office of the Pima County Recorder.
2. On or about February 21, 1984, the First Amendment and a Restatement of the Declaration was recorded in Docket 7223 at pages 1122 through 1188 in the Office of the Pima County Recorder.
3. On or about May 2, 1984, a Second Amendment to the Declaration was recorded in Docket 7274 at pages 94 through 96 in the Office of the Pima County Recorder.
4. On or about August 2, 1984, a Third Amendment to the Declaration was recorded in Docket 7338 at pages 309 through 311 in the Office of the Pima County Recorder.
5. On or about May 16, 1990, a Fourth Amendment to the Declaration was recorded in Docket 8789 at pages 432 through 435 in the Office of the Pima County Recorder.
6. On or about April 18, 1994, the Restatement of the Declaration was recorded in Docket 9773, at page 1125 through 1146 in the Office of the Pima County Recorder.
7. The owners of the property covered by the Declaration held a duly noticed meeting on January 25, 2007 voted to approve the 2007 Updated Declaration as hereinafter set forth.

WHEREAS, should any portion of these CC&Rs be in conflict with the Articles of Incorporation, the Declaration shall take precedence.

WHEREAS, should any portion of these CC&Rs be in conflict with any Federal, State, or County law, the Federal, State, or County law shall take precedence.

NOW, THEREFORE, pursuant to Article VIII, Section 8.02 of the Declaration, the undersigned President and Secretary of Viewpoint Homeowners Association, Inc., hereby acknowledge and certify that this 2007 Updated Declaration of Establishment of Covenants, Conditions & Restrictions of Viewpoint Homeowners Association, Inc., a portion of Colonia de los Alamos, has been approved by the vote of written consent of the owners of not less than 75% of the Dwelling Units and Lots, and therefore declare that the Declaration recorded in Docket 7223 at pages 1122 through 1188 inclusive, and as thereafter amended, is hereby replaced in its entirety with the following Declaration of Covenants, Conditions & Restrictions effective upon recording of this 2007 Update.

ARTICLE I

DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used herein shall have the meanings hereinafter assigned.

Section 1.01—"Articles" shall mean the Articles of Incorporation of the Association and amendments thereto which are or shall be filed in the Office of the Arizona Corporation Commission.

Section 1.02—"Association" shall mean and refer to Viewpoint Homeowners Association, Inc., an Arizona nonprofit corporation, its successors and assigns.

Section 1.03—"Board" shall mean the Board of Directors of the Association.

Section 1.04—"Bylaws" shall mean the Bylaws of the Association, together with any amendments thereto.

Section 1.05—"Common Area" or "Common Property" shall mean Lot 7 of Block 11, as shown on the Plat, and all real property designated as Common Area on the Plat, whether improved or unimproved, owned by the Association for the common use and enjoyment of the owners. The Common Area includes the recreational area facilities and the swimming pool. Common Property shall also include any real or personal property now or hereinafter owned by or leased by the Association.

Section 1.06—"Declaration," "Restrictions," or "CC&Rs" shall mean this instrument and any amendments thereto.

Section 1.07—"Dwelling Unit" or "Lot" shall mean the real property outlined on the Plat and encompassed within the boundary lines surrounding the numbered designation for that Dwelling Unit or Lot as shown on the Plat, together with any improvements placed within the confines of said boundary.

Section 1.08—"Lot" shall mean and refer to any numbered parcel of real property shown on the Plat, together with the Dwelling Unit, if any, thereon.

Section 1.09—"Member" shall mean and refer to every person and/or entity who holds membership in the Association.

Section 1.10—"Owner(s)" or "Homeowner(s)" shall mean and refer to (1) the record owner, whether one or more persons or entities, of equitable or beneficial title in fee simple (or legal title if same has merged) of any Dwelling Unit; (2) the purchaser of a Dwelling Unit under a recorded executory contract for the sale of real property. The foregoing does not include persons or entities who hold an interest in any Dwelling Unit merely as security for the performance of an obligation, or a lessee or tenant of an owner as defined above, or a purchaser or vendee under any executory contract of sale which has not "closed" and/or been recorded in the Office of the County Recorder of Pima County, Arizona.

Section 1.11—"Person" shall mean a natural individual or any other entity with the legal right to hold title to real property.

Section 1.12—"Plat" shall mean the subdivision plat covering the property under the name "Colonia de los Alamos" recorded in Book 34 of Maps and Plats at page 51, and rerecorded in Book 304 of Maps and Plats at page 57, in the Office of the County Recorder of Pima County, Arizona, and any further amendments thereto.

Section 1.13—"Property" or "Subdivision" shall mean all that real property identified in the Plat.

Section 1.14—"Rules" shall mean the rules adopted from time to time by the Board pursuant to the Bylaws.

ARTICLE II USES & RESTRICTIONS

All property within the subdivision shall be held, used, and enjoyed, subject to the following limitations and restrictions:

Section 2.01—Private Residential Purposes. Dwelling units shall be occupied and used by the respective owners for private residential use of the homeowner, his/her family, tenants, and social guests. Any gainful occupation, profession, trade, or other nonresidential use of one's property shall be conducted in such a manner as to not constitute a nuisance.

Section 2.02—Age Restriction (adopted March 15, 1990, 4th amendment to CC&Rs). Each dwelling unit shall be occupied by at least one (1) person, who is fifty-five (55) years of age or more, and no person under the age of eighteen (18) shall permanently reside in any dwelling unit, unless said age restriction, by its operation, would work an undue hardship on an owner in the case of sudden, unforeseen events, or would be likely to result in an increased risk of a first mortgage loan default. An example of undue hardship may include, but not be limited to, an owner-occupant becoming a guardian or custodian of a minor child who most reside with the owner-occupant (i.e., someone fifty-five [55] years of age or older), whether said qualified occupant is an owner or lessee, shall not be considered an example of undue hardship which would prohibit enforcement of this age restriction. This paragraph is a restriction on the age of occupants of dwelling units, and is not to be construed as a restriction on the age of owners of dwelling units; provided, however, an owner under the age of fifty-five (55) years, in order to occupy a dwelling unit, must comply with the requirements of the first sentence of this Section (2.02). The foregoing maximum and minimum age restrictions shall apply to each dwelling unit located in the subdivision for which a sale shall have closed or a lease shall have been entered into after May 15, 1990, being the date of the recording of the Fourth Amendment of the prior declaration amending the age restriction. Persons or members of households of such persons who have acquired legal or equitable title to or entered into a lease of such dwelling units prior to May 16, 1990, shall be exempt from the foregoing age restrictions.

Section 2.03—Renting. Each owner shall have the right to lease or rent his/her dwelling unit; provided, however, that any lease agreement, including any agreement to lease the unit on a month to month basis, must be in writing and must provide that the failure of any lessee or tenant to comply with the Rules, Bylaws, Articles, and Provisions of this Declaration shall be a default under the lease. Any lease agreement shall be for a period of not less than thirty (30) days.

Section 2.04—Antennas & Exterior Additions. The Board shall determine standards for exterior television antennas, satellite dishes, cables, or other devices for the reception or transmission of radio, television, or other similar signals. Further, no exterior devices, additions, structures, or accessory buildings, other than initially installed by the original builder of the dwelling unit, shall be constructed on the exterior of a dwelling unit (including the roof) without the written authorization of the Board.

The maximum allowed diameter for dishes is 24 inches. No exterior device is to be installed on the street side nor be visible from the street and minimally by neighbors. It must not protrude above the house rooftop or above the top level of the property's back fence.

Section 2.05—Flags & Flagpoles.

1. American Flags (ARS 33-1261 and ARS 33-1808) may be displayed in a manner consistent with the federal flag code.
2. Other Flags (SB 1055 effective September 23, 2006) are regulated, not prohibited. They include military, POW/MIA, Arizona State, and Arizona Indian Nations.
3. Flagpoles are limited to fifteen (15) feet or less in height. Homeowners wishing to install flags or flagpoles must obtain permission of the Architectural Committee, with Board of Directors approval, with special regard to the respectful placement/location and manner of flag display on homeowner's property.

Section 2.06—Insurance Rates. Nothing shall be done or kept on any lot or common area which will increase the rate of insurance on the common area, nor shall anything be done or kept on any dwelling unit or common area which will result in the cancellation of insurance on any of the common area or which would be in violation of any law.

Section 2.07—Signs. No signs of any kind, which are visible from neighboring property, shall be displayed without the approval of the Board except:

1. Such Signs as may be required by legal proceedings; and
2. Such signs, as may be approved by the Board, indicating a dwelling unit is for sale or lease.

Where the Board's approval is required, it shall approve the nature, composition, number, size, and location of all such signs.

Section 2.08—Animals. No animals of any kind shall be raised, bred, or kept, except that a reasonable number of generally recognized house or yard pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. No animals shall be allowed to become a nuisance. A "reasonable number" as used in this Section (2.08) shall mean no more than two pets per dwelling unit; provided, however, the Board may determine that a reasonable number in any instance may be more or less. Upon the written request of any owner, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section (2.08), a particular animal is a generally recognized house or yard pet or a nuisance, or whether the number of animals is reasonable.

Section 2.09—Nuisances. No rubbish, debris, and/or weeds of any kind shall be placed or permitted to accumulate upon any property within the subdivision, and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (except security devices used exclusively for security purposes) shall be located, used, or placed on any such property without the prior written approval of the Board. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

Section 2.10—Violation of Rules. In addition to any other enforcement provisions contained herein, if any owner (his/her family, or any licensee, tenant, lessee, or invitee) violates the Board's Rules, the Board may suspend the right of such person to use the common area. This suspension is under such conditions as the Board may specify, for a period not to exceed sixty (60) days for each violation. Before invoking any such suspension, the Board shall give such person notice of hearing before the Board.

Section 2.11–Drainage. There shall be no interference with the established drainage pattern over any property, including any private drainageways or easements, within the subdivision, unless adequate provision is made for proper drainage conforming to Pima County rules, regulations, ordinances, and drainage criteria, and is approved by the applicable governing body or its duly appointed representative.

Section 2.12–Unsightly Articles. No unsightly articles shall be permitted to remain so as to be visible from adjoining dwelling units or from the street or public way. Grass, shrub, or tree clippings, and all machinery, storage piles, woodpiles, garbage or trash containers shall be kept within an enclosed structure or appropriately screened from view of adjoining property or from streets or public way except necessary to effect such collection. The Board shall have sole discretion in determining if any activity by an owner is in violation of this Section (2.12).

Section 2.13–Trash Containers. All rubbish, trash, or garbage shall be removed from the dwelling units and shall not be allowed to accumulate thereon. No incinerators shall be allowed. Trash/garbage containers shall be placed at curbside only on days of scheduled collection and shall be removed from view on the same day of collection. Owners of dwelling units utilizing common trash/garbage collection areas shall be jointly and severally responsible for keeping said common collection areas in a clean and sanitary condition. The Board shall have sole discretion in determining if any activity by an owner is a violation of this Section (2.13).

Section 2.14–Right of Inspection. During reasonable hours, the Board, consisting of the majority of the Board or any authorized representative, shall have the right upon reasonable notice to the owner of a dwelling unit to enter upon and inspect any property within the subdivision (except the interior of dwelling units), for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

Section 2.15–Vehicles & Garages. The use of all vehicles, including, but not limited to, trucks, automobiles, bicycles, and motorcycles, shall be subject to the Rules, which may prohibit or limit the use thereof, provide parking regulations, or generally regulate same. 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. At no time shall there be any outside storage of motor vehicles in stages of construction, reconstruction, modification, or rebuilding of parts of motor vehicles, such as frames, bodies, engines, or other parts or accessories. Further, the storage or parking of any recreational vehicle, commercial vehicle, or boat, other than completely within owner's garage, is prohibited. Temporary parking of recreational vehicles shall be limited to no more than seventy-two (72) hours for loading, unloading, and/or minor maintenance.

Municipal (HB 2204) and Utility Vehicles (HB 2205) allows a resident to park a motor vehicle as a condition of their employment, and the vehicle is required to be available at the person's residence for emergency deployment. Municipal vehicles are police or fire service for federal, state, local, or tribal agency or private provider or an ambulance service. Utility vehicles are natural gas, electrical, or water infrastructure.

Section 2.16–Clotheslines. No exterior clotheslines shall be erected or maintained. For purposes of this Section (2.16), porches and/or patios are considered to be exterior.

Section 2.17–Diseases & Insects. No owner shall permit anything or any condition to exist upon any property within the subdivision that shall induce, breed, or harbor infectious plant diseases or noxious insects.

Section 2.18–Sidewalls & Plantings. Where the sidewalls of dwelling units have been constructed on the lot lines, there shall be no irrigated plantings within five (5) feet of such dwelling unit sidewalls by an adjacent owner or occupant.

ARTICLE III

EASEMENTS, ARCHITECTURAL CONTROL & COMMON WALLS

Section 3.01–Easement Encroachments. Each dwelling unit and the common area shall be subject to an easement for encroachments created by construction, settling, and overhangs, as originally constructed, including footings and walls thereon. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist.

Section 3.02–Private Drainage Easements. Private drainage easements may have been established as shown on the plat or by separate instrument duly recorded over and across certain lots for the exclusive use and benefit of other lot owners. Each owner of a lot on which a private drainage easement is located shall be responsible for maintaining that easement and keeping it free and clear from all debris, refuse, and any other foreign matter which shall in any way interfere with or hinder the free flow of water in the easement as originally constructed. In the event of the failure of any lot owner to so maintain an easement, other lot owners benefited by such easements shall have no cause of action against the Association, but shall proceed solely against that lot owner.

Section 3.03–Utility Easements. In addition to those specific easements shown on the plat, there is hereby created a blanket easement upon, across, over, and under the common area for ingress, egress, installation, replacing, repairing, and maintaining all utility and service lines and systems, including, but not limited to, water, sewer, gas, telephone, electrical, television cable, or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the common area and to affix and maintain wire, circuits, and conduits on, in, and under the roofs and walls of the common area. Notwithstanding anything to the contrary contained in this Section (3.03), no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on the property except as initially designed and installed or as hereafter approved by the Board. This easement shall in no way affect any other recorded easements on the property. In no event shall any portion of the above-mentioned easements for utilities be constructed to authorize the placing or installing of sewers, electrical lines, water lines, or other utilities under any permanent building structure constructed on the property. This easement shall be limited to improvements as originally constructed. There shall be an access easement for the delivery and collection of the United States mail.

Section 3.04–Easement for Perimeter Walls & Other Improvements. To the extent that perimeter walls and other improvements, including, but not limited to, driveways, walkways, exterior lighting, drainage structures, etc., as a part of, or for the use of, a particular dwelling unit encroach upon or encompass portions of the common area or adjacent lots, then the owner of the dwelling unit involved shall have, subject to the conditions hereinafter set forth, a perpetual permanent right for such perimeter walls to encompass portions of the common area or adjacent lots and for such other improvements to encroach upon portions of the common area or adjacent lots. In consideration thereof, such owners agree to maintain and keep in repair any improvements and encroachments upon the common area or adjacent lots, which were constructed for the use of their dwelling unit, unless such maintenance and repairs are the responsibility of the Association set forth in Section 4.04B of this Declaration.

In the event any such owners should make demands upon the Association to maintain any common area within the confines of such perimeter wall, or to maintain and keep in repair any improvements encroaching upon the common area or adjacent lots, which is the responsibility of the owner to repair as set forth in Sections 4.04A and 4.04C of the Declaration, then the Association or adjacent lot owner, as the case may be, shall have the absolute right, and may cause the owner making such demand to remove at his/her expense, any improvement, including the perimeter wall, encroaching upon the common area or adjacent lot, and to replace and rebuild such improvement or perimeter wall as to be within such owner's lot. The right granted owners under this Section (3.04) is a property right of the owner, and such property right may not be revoked or rescinded by the Association, once such right has vested in an owner, except upon an owner's breach of the conditions set forth in the preceding sentence.

Section 3.05—Electrical Service & Telephone Lines. All electrical service and telephone lines shall be placed underground, and no outside electrical lines shall be placed overhead except existing overhead lines, provided that no provisions hereof shall prohibit the erection of temporary power or telephone structures incident to construction.

Section 3.06—Common Walls. The rights and duties of owners with respect to common walls or fences shall be as follows:

- A. Each wall, including patio walls and fences, which is constructed as a part of the original construction of the dwelling unit, any part of which is placed on or over the dividing line between separate dwelling units, shall constitute a common wall. With respect to any such wall, each of the adjoining unit owners shall assume the burden and be entitled to the benefits recited in this Section (3.06) and to the extent not inconsistent herewith the general rules of law regarding common walls shall be applied thereto.
- B. Unless other provisions of this Section (3.06) are applicable, the costs of reasonable repair and maintenance of a common wall shall be shared equally by the owners who make use of the common wall in proportion to such use.
- C. In the event any common wall is damaged or destroyed through the act of one adjoining owner, or any of his guest(s) or agents or members of his family so as to deprive the other owner of the full use and enjoyment of such wall, then the first of such owners, if required under local law, shall forthwith proceed to rebuild and repair the same to as good condition as formerly without cost to the other owner.
- D. In the event any common 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 such adjoining owners shall, if required under local law, proceed to rebuild or repair the same to as good condition as formerly at their joint and equal expense.
- E. In the event of a dispute between owners with respect to the repair or rebuilding of a common wall or with respect to the sharing of cost thereof, then upon written request of one of such owners delivered to the Association, the matter shall be heard and determined by the Board.

Section 3.07—Architectural Control. No building, fence, wall, or other structure shall be commenced, created, erected, or maintained upon any lot. Nor shall any exterior addition to, change in, or alteration of a dwelling unit, any common wall, or the exterior color scheme (including base or trim) be made until the plans and specifications showing the nature, kind, shape, height, materials, color scheme, and location have been submitted to the Architectural Committee for review and recommendation, and approved in writing by the Board. Such additions, changes, or alterations of external design or location should promote or enhance the appearance of the neighborhood.

UNION BOUND

In the event the Architectural Committee or the Board fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted, approval will not be required and this Section (3.07) will be deemed to have been fully complied with. No changes or deviations in or from the plans and specifications recommended by the Architectural Committee and approved by the Board shall be made without first obtaining the written recommendation of the Architectural Committee and the Board's approval.

The Architectural Committee and the Board shall not be responsible for any structural defects in said plans or specifications, or in any building or structure erected according to such plans and specifications. The Architectural Committee and the Board shall not be liable for damages to anyone submitting plans for approval or to any owner or owners of lots by reason of mistake in judgment, negligence, or nonfeasance of itself, its agents, or employees arising out of or in connection with the approval, disapproval, or failure to approve any such plans. Documents and plans supporting any changes must be filed in the dwelling unit's file after final action by the Board, per HB 2299.

ARTICLE IV

ORGANIZATION, MEMBERSHIP & MAINTENANCE

Section 4.01—Organization.

- A. Association. The Association is an Arizona nonprofit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration.
- B. Personal Liability. No member of the Board or any committee of the Association or an officer or employee of the Association shall be personally liable to any owner, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, or any representative or employee of the Association or any committee, or any officer of the Association, provided that such person has, upon the basis of such information as may be possessed by him/her, acted in good faith, without willful or intentional misconduct.

Section 4.02—Membership.

- A. Qualifications. Each owner of a dwelling unit, by virtue of being such an owner and for so long as he/she is such an owner, shall be deemed a member of the Association. No owner shall have more than one membership for each dwelling unit owned.
- B. Transfer of Membership. Membership of each owner in the Association shall be appurtenant to the dwelling unit owned and shall not be transferred, pledged, or alienated in any way except upon the transfer of ownership of said dwelling unit, and then only to the transferee thereof. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a dwelling unit shall operate automatically to transfer said membership to the new owner thereof.

Section 4.03—Voting Rights. All owners shall be entitled to one vote for each dwelling unit or lot owned. When more than one person holds an interest in any dwelling unit, all such persons shall be considered members, with the vote for such dwelling unit being exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any dwelling unit.

Section 4.04–Exterior Maintenance: Restore, Repair, Repaint, Reseal

- A. Maintenance of dwelling units, including all improvements on a lot, shall be the sole responsibility of each owner. Except to the extent of the Association’s obligations under Section 4.04B, each owner shall also maintain both sides of the perimeter yard walls or fences appurtenant to his/her dwelling unit, except that if such a wall or fence is a common wall or fence, an owner shall be required to maintain only that portion of the wall or fence exclusively used by that owner. Such maintenance of a dwelling unit and other improvements on a lot shall be undertaken in a manner and with such frequency as shall keep each owner’s dwelling unit in an attractive, well-kept, and maintained condition in conformity with all other dwelling units in the subdivision.

In the event any owner fails to fulfill his/her obligations under this Section (4.04A), the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right through its agents and employees, to enter upon the subject property, and to repair, maintain, and restore the dwelling unit, including the perimeter yard walls or fences, and any other improvements. The cost of such exterior maintenance shall be added to and become part of the assessment to which such dwelling unit is subject.

The Board shall have the right to determine whether or not a dwelling unit is in need of maintenance, in order to conform to the standards of the general neighborhood of the subdivision, and the Board shall use a reasonably high standard to determine whether such maintenance is required so that the dwelling units as a whole will reflect a high pride of ownership. Each owner or his/her authorized agent or the Association, as the case may be, in order to conduct such maintenance, shall have the right of entry at reasonable times upon dwelling units adjacent to such owner’s dwelling unit, provided reasonable notice of such entry is first given by such owner to the owner of the involved adjacent dwelling unit.

- B. The Association shall be responsible for maintenance, repair, and upkeep of the recreation facilities, including the pool, landscaping, and parking areas constructed on the common area. In addition, the Association shall be responsible for maintaining and repainting perimeter walls or fences constructed along the boundaries of this property.
- C. Each owner shall be responsible for the maintenance and repair, including replacement of light bulbs, of all exterior lighting fixtures located within the owner’s dwelling unit.

ARTICLE V

INSURANCE & CONDEMNATION

Section 5.01–Insurance Requirements.

- A. Comprehensive General Liability & Property Insurance. Comprehensive general liability and property damage insurance covering the common area shall be purchased by the Association and shall be maintained in full force and effect at all times. Liability coverage shall be for at least one million dollars (\$1,000,000) per occurrence for personal and/or property damage.
- B. Fire Hazard Insurance–Common Area. Fire and other hazard insurance covering improvements constructed on the common area, including, but not limited to, ramadas or recreation buildings. Such policy or policies shall consist of, at a minimum, a multiperil-type policy covering the subject improvements, providing, as a minimum, fire and extended coverage on a replacement cost basis, in an amount of not less than one hundred percent (100%) of the insurable value (based upon the replacement cost).

- C. Insurance Premiums. Premiums for insurance purchased or obtained by the Association shall be a common expense payable through assessments of dwelling units and all such insurance coverage obtained by the Board shall be written in the name of the Association.

Section 5.02–Condemnation Destruction.

A. Condemnation.

1. *Taking.* The term “taking,” as used in this Section (5.02), shall mean either (a) condemnation by eminent domain or (b) sale under threat of condemnation.
2. *Authority of Board.* In the event of a threatened taking of all or any portion of the common area, the members hereby appoint the Board of the Association and such persons as the Board or the Association may delegate to represent all of the members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action.
3. *Partial Taking.* In the event of a taking of less than all of the common area, the rules as to restoration and replacement of the common area and the improvements thereon shall apply as in the case of destruction of improvements upon the common area.
4. *Distribution of Proceeds.* Any awards received on account of the taking shall be paid to the Association. In the event of a total taking, the Board shall retain any award in the general funds of the Association.

- B. Destruction–Duty of Association. In the event of a partial or total destruction of the common area, common property, or improvements thereon, it shall be the duty of the Association to restore and repair the same to their former condition as promptly as is practicable and in a lawful and workmanlike manner. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose. Any excess insurance proceeds shall be retained by the Board in the general funds of the Association.

ARTICLE VI

OWNERSHIP, USE & MANAGEMENT OF THE COMMON PROPERTY

Section 6.01–Owner’s Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the common area, which shall be appurtenant to and shall pass with title to every dwelling unit subject to Section 5.02.

Section 6.02–Conditional Use of Common Area. Each owner, his/her family, licensees, invitees, and tenants or lessees, or contract purchasers of a dwelling unit shall be entitled to use the common area subject to:

- A. The provisions of the Articles, Bylaws, these Restrictions, and the Rules. Each owner agrees that in using the common area he/she will comply with the provisions of such Articles, Bylaws, these Restrictions, and the Rules.
- B. The right of the Association to charge a reasonable security deposit and clean-up fee for the use of any recreational facility situated upon the common area.
- C. The right of the Association to suspend the right of an owner to use recreational facilities of the common area for a period not to exceed sixty (60) days for any infraction of its published Rules.

Section 6.03–Delegation of Use. Any owner may delegate his/her right of enjoyment in the common area and facilities to the members of his/her family, tenants or lessees, or contract purchasers who reside in the dwelling unit, subject to such rules, regulations, and limitations as the Association may, from time to time, establish. Such delegation shall not relieve said owner of his/her obligations and responsibilities as a member under the Bylaws, Rules, and this Declaration.

Section 6.04–Management. The Board shall control, maintain, and improve the common area as provided in this Declaration, the Articles, and Bylaws. Such right and power of control and management shall be exclusive. In managing the common area, the Association hereby accepts all responsibility for the control, maintenance, safety, and liability of such common area including, but not limited to, collecting and paying taxes on the common area as levied by the County Assessor.

Section 6.05–Damage or Destruction of Property. In the event any common property is damaged or destroyed by an owner or any of his/her guests, tenants, licensees, agents, or family members, such owner shall be liable, therefore, 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. Each owner further agrees that these charges for repairs, if not paid within ten (10) days after completion of the work, shall be delinquent and shall become a lien upon owner's dwelling unit and shall continue to be such lien until fully paid. The lien shall be subordinate to any first mortgage or encumbrance on the subject property. Said charges shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum. The amount of principal and interest owed by the owner to the Association shall be a debt, and shall be collectible by any lawful procedure allowed by the laws of the State of Arizona.

Section 6.06–Restriction on Conveyance of Common Areas & Facilities. The common area and facilities owned by the Association may not, by act or omission, be abandoned, partitioned, subdivided, encumbered, sold, or transferred without the prior written approval of at least two-thirds (2/3) vote of the owners. Except that the Association shall, at all times, have the right to 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:

1. roads, streets, walks, pathways, and driveways;
2. temporary overhead or permanent underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, telephone, cable TV, and other purposes;
3. sewers, storm drains and pipes, drainage easements, water systems, water, heating, and gas lines or pipes;
4. any similar or quasi-public improvement or facilities.

ARTICLE VII

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 7.01—Creation of the Lien & Personal Obligation to Pay Assessments. Each owner, by acceptance of a deed to any dwelling unit, 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 for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the dwelling unit and shall be a continuing lien upon the property against which each assessment is made. Delinquent assessments, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such dwelling unit at the time when the assessment was levied.

Section 7.02—Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the members and their guests, for the improvement and maintenance of the common area, and for all purposes set forth in the Articles, Bylaws, and this Declaration. The Board of Directors of the Association shall provide that Association dues, charges, or assessments shall include an adequate reserve fund for maintenance, repairs, and replacement of those elements of the common area owned by the Association that must be replaced on a periodic basis. All such dues, charges, and assessments imposed by the Association shall be paid on a periodic basis in regular installments rather than by special assessments, unless so determined by the Board as provided herein.

Section 7.03—Maximum Annual Assessment.

- A. Prior to the end of each calendar year, beginning with 1993, the Board shall estimate the total charges to be paid during the forthcoming year to determine the annual dues assessment, including a reasonable reserve for contingencies and less any expected surplus from the prior year. The annual assessment may change from time to time as deemed necessary. When changes are made, notification of current annual dues will be presented at the Viewpoint HOA Annual Meeting, published in the *Viewpoint Newsletter*, and recorded in the Board minutes.
- B. Subject to Section 7.03C hereof, the Board of Directors shall not increase the assessment by an amount greater than two dollars (\$2.00) per month.
- C. Any increase by the Board of Directors in the assessment, which is greater than the amount permitted under Section 7.03B hereof, must be first approved by two-thirds (2/3) vote of the members who are voting in person or by absentee ballot at a meeting duly called for this purpose before such increase may be placed in effect and bind the members of the Association.

Section 7.04—Special Assessment for Capital Improvements. 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, repair, or replacement of a capital improvement of the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by absentee ballot at a meeting duly called for this purpose.

Section 7.05—Notice & Quorum for an Action Authorized Under Section 7.03C & Section 7.04. Written notice of any meeting called for the purpose of taking action authorized under Section 7.03C and Section 7.04 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of absentee ballots entitled to cast sixty percent (60%) of the voting membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7.06—Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all dwelling units. However, subject to the limitations set forth in Section 7.03B, said uniform rate may be revised periodically to reflect revisions in the annual assessments based on actual operating cost of the Association.

Section 7.07—Effect of Nonpayment of Assessments; Remedies of the Association. Each owner shall be deemed to covenant and agree to pay to the Association the assessments and penalties as provided for herein and in Rules and Regulations as adopted by the Association and agrees to the enforcement of the assessments and penalties in the manner herein specified. All delinquent assessments and penalties shall bear interest at an interest rate not to exceed twelve percent (12%) per annum. Each owner expressly vests in the Association or its agents the right and power to bring all actions against any owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage of real property, and such owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section (7.07) shall be in favor of the Association and shall be for the benefit of all other owners.

In the event the Association employs an attorney to enforce such lien or the collection of any amounts due pursuant to this Declaration or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the owner against whom the action is brought shall pay all attorney's fees and costs thereby incurred by the Association in the event the Association prevails in any such action. In addition to any other remedies herein or provided by law, the Association may enforce such obligation in the manner provided by law or equity.

Section 7.08—No Exemption of Owner. No owner is exempt from liability for payment of assessments by waiver of the use of enjoyment of the common area, or by abandonment of his/her dwelling unit.

Section 7.09—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 dwelling unit shall not affect the assessment lien. However, the sale or transfer of any dwelling unit pursuant to mortgage foreclosure of a first mortgage, or a trustee's sale pursuant to power of sale or a foreclosure of a first deed of trust, or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such dwelling unit from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VIII GENERAL PROVISIONS

Section 8.01—Term. The covenants, conditions, and restrictions of this Declaration shall remain in full force and effect for a period of twenty (20) years from the date this Declaration is recorded. Thereafter, they shall be deemed to have been renewed and automatically extended for successive periods of ten (10) years each.

Section 8.02—Amendments. This Declaration may be amended by an instrument in writing, signed and acknowledged by the President and Secretary of the Association, certifying that such amendment has been approved by the vote or written consent (with or without an Association meeting) of the then owners of not less than seventy-five percent (75%) of the dwelling units, and such amendment shall be effective upon its recordation with the Pima County Recorder.

Section 8.03—Enforcement & Nonwaiver.

- A. Enforcement. Except as otherwise provided herein, 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, or charges now or hereafter imposed by provision of this Declaration.
- B. Violation of Law. Each and every provision of this Declaration and any amendment hereto shall be subject to all applicable governmental ordinances and subdivision regulations and any future amendments thereto. Any violation of any state, municipal, or local law, ordinance, or regulation pertaining to the ownership, occupation, or use of any property within the subdivision is hereby declared to be a violation of these Restrictions and subject to any or all of the enforcement procedures set forth herein or in the Bylaws.
- C. Remedies Cumulative. Each remedy provided by these Restrictions is cumulative and not exclusive.
- D. Nonwaiver. Failure at any time by the Board, the Association, or any owner to enforce any provisions of these Restrictions shall not constitute a waiver of the right thereafter to enforce any such provisions or any other provisions of these Restrictions.

Section 8.04—Mortgage Protection. Notwithstanding any other provisions of this Declaration, no amendment of this Declaration shall operate to defeat and render invalid the rights of a mortgagee or a beneficiary under a deed of trust upon a dwelling unit made in good faith and for value, provided that after the foreclosure of any such deed of trust or mortgage, such dwelling unit shall remain subject to this Declaration.

Section 8.05—Construction.

- A. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and operation of the subdivision. This Declaration shall be construed and governed by the laws of the State of Arizona. If there is any conflict among or between the Articles of Incorporation, the Declaration, the Bylaws, or the Rules, the provisions of this Declaration shall prevail. Thereafter, priority shall be given first to the Articles of Incorporation, then to the Bylaws, and then to the Rules.
- B. Restrictions Severable. Notwithstanding the provisions of the foregoing subsection 8.05A, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity of enforceability of any other provision.

- C. Rule Against Perpetuities. In the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event said periods of time shall be reduced to a period of time which shall not violate the rules against perpetuities as set forth in the laws of the State of Arizona.
- D. Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter.
- E. Caption. All captions and titles used in this Declaration are intended solely for convenience or reference purposes only and in no way define, limit, or describe the true intent and meaning of the provisions hereof.

Section 8.06—Delivery of Notices & Documents. Any written notice or other documents, relating to or required by this Declaration, shall be delivered either personally or by U.S. Postal Service with Delivery Confirmation to each owner of a dwelling unit. Viewpoint homeowners must notify the Association of their correct mailing address or of any subsequent change of address. These notifications can be sent to the Viewpoint Homeowners Association, Inc., 930 W. Rio Zuni, Green Valley, AZ 85614.

Section 8.07—Binding Effect. By acceptance of a deed or acquiring any ownership interest in any of the property included within this Declaration, each person or entity, for himself/herself, or itself, his/her heirs, personal representatives, successors, transferees, and assigns, binds himself/herself, his/her heirs, personal representatives, successors, transferees, and assigns to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the property and hereby evidences his/her interest that all the restrictions, conditions, covenants, rules, and regulations contained herein shall run with the land and be binding on all subsequent and future owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive, and enforceable by the various subsequent and future owners.

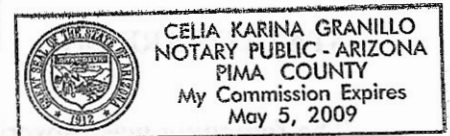
IN WITNESS WHEREOF, the undersigned being President and Secretary of Viewpoint Homeowners Association, Inc., an Arizona nonprofit corporation, have executed this 2007 Updated Declaration of Establishment of Covenants, Conditions & Restrictions of Viewpoint Homeowners Association, Inc. (formerly known as a portion of Colonia de los Alamos) on this day, month, and year.

VIEWPOINT HOMEOWNERS ASSOCIATION, INC.,

By Raymond A. Canall Date 1/31/2007
President

By Karen J. Lutz Date 1/31/2007
Secretary

Celia Karina Granillo 01-31-07
My Commission Exp. May 5, 2009



CERTIFICATION

The undersigned, being the President and Secretary of VIEWPOINT HOMEOWNERS ASSOCIATION, INC., do hereby certify that the foregoing 2007 Updated Declaration of Establishment of Covenants, Conditions & Restrictions of Viewpoint Homeowners Association, Inc. (a portion of Colonia de los Alamos), has been approved by the vote or written consent of the owners of not less than seventy-five (75%) of the dwelling units.

VIEWPOINT HOMEOWNERS ASSOCIATION, INC., an Arizona nonprofit corporation.

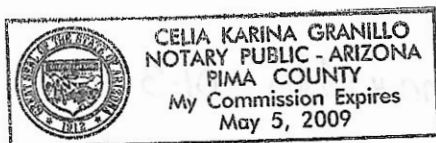
By Raymond A. Carroll Date 1/31/2007
President

By Karen J. Lutz Date 1/31/2007
Secretary

COUNTY OF PIMA

ss.

STATE OF ARIZONA



The foregoing was subscribed and sworn to before me this 31 day of JANUARY, 2007 by RAYMOND A. CARROLL and KAREN J. LUTZ as President and Secretary of Viewpoint Homeowners Association, Inc.

Celia Karina Granillo
Notary Public

My commission expires May 5, 2009

ARIZONA