

Recording Requested by:
Commerce Title Company



**OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTLE**

When recorded mail to:
Bienvenido T Fama and Noemi S Fama
28948 N. Agave Road
Queen Creek, AZ 85243

DATE/TIME: 03/09/06 1214
FEE: \$19.00
PAGES: 8
FEE NUMBER: 2006-033897

SPECIAL WARRANTY DEED

Escrow No. **509839 (DM)**
A.P.N.: 210-70-656

For the consideration of TEN AND NO/100 DOLLARS, and other valuable considerations, I or we,

Centex Homes, a Nevada General Partnership, the GRANTOR does hereby convey to

Bienvenido T Fama and Noemi S Fama, husband and wife, the GRANTEE

the following described property situated in **Pinal County, Arizona**, with the title being conveyed to the grantee as set forth in the attached acceptance by the grantee:

Lot 117, of Final Plat of JOHNSON RANCH UNIT 29, according to the plat of record in the office of the County Recorder of Pinal County, Arizona recorded in Cabinet E, Slide 23.

Subject To: Current taxes, and other assessments, reservations in patent, covenants, conditions, restrictions, rights of way and easements, encumbrances, liens, obligations, and liabilities as may appear of record. Subject also to Declaration of CC&R's and deed restrictions attached hereto as Exhibits A and B respectively and made a part hereof.

And the GRANTOR binds itself and its successors to warrant the title as against its acts and none other, subject to the matters set forth.

DATED: **March 03, 2006**

Centex Homes, a Nevada General Partnership


By: John P. Bechtold, Assistant
Secretary

SEE ACCEPTANCE ATTACHED HERETO

AND REFERENCE MADE A PART HEREOF

A.P.N.:

Special Warranty Deed - continued

File No.: **509839 (DM)**

STATE OF AZ)
(County of MariCopa)) SS.

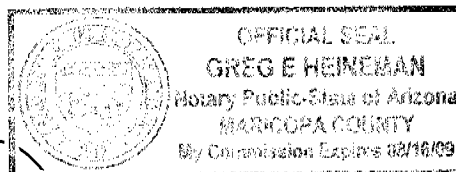
This instrument was acknowledged and executed before me this 6 day of March, 2006 by John P. Bechtold who acknowledge to be the Assistant Secretary of Centex Homes, a Nevada general partnership, by Centex Real Estate Corporation, a Nevada corporation, it's Managing General Partner.

WITNESS my hand and official seal.

Signature: Greg E Heineman

My Commission Expires: 08-16-2009

This area for official notarial seal



ACCEPTANCE OF COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP

Bienvenido T Fama and Noemi S Fama, each for himself or herself and jointly, but not one for the other, state that the undersigned have offered to purchase the real property situate in **Pinal** County described as follows:

Lot 117, of Final Plat of JOHNSON RANCH UNIT 29, according to the plat of record in the office of the County Recorder of Pinal County, Arizona recorded in Cabinet E, Slide 23.

That each of the undersigned individually and jointly as such Grantees hereby declare that it is their intention to accept such conveyance as community property with right of survivorship and not as joint tenants with right of survivorship and not as tenants in common, and to acquire any interest in said real property under said deed as community property with right of survivorship, and not as joint tenants with right of survivorship and not as tenants in common.

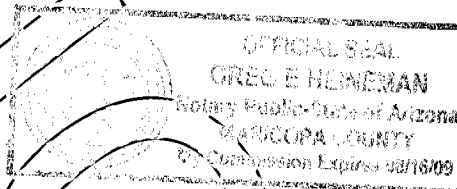
That by the execution and delivery to the Escrow Agent of this "Acceptance of Community Property with Right of Survivorship" the undersigned intend to evidence their acceptance of said deed as community property with right of survivorship, and hereby direct and authorize the Escrow Agent to attach this "Acceptance of Community Property with Right of Survivorship" to such deed upon its execution and delivery and to record this "Acceptance of Community Property with Right of Survivorship" together with such deed.

Date: **March 03, 2006**

Bienvenido T Fama
Bienvenido T Fama

Noemi S Fama
Noemi S Fama

STATE OF AZ)
County of Maricopa) ss.



On 03/06/2006, before me, the undersigned Notary Public, personally appeared **Bienvenido T Fama and Noemi S Fama**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires: 08/16/2009 Notary Public

Commerce Title Company 509839 (DM)

A.P.N.:

Special Warranty Deed - continued

File No.: **509839 (DM)**

EXHIBIT "A"

The property conveyed pursuant to this instrument is subject to that certain Declaration of Covenants, Conditions and Restrictions recorded at Document No. 98-041265, Pinal County, Arizona, which instrument (together with any and all amendments thereto) impose upon this property and other property, under general plan of development, certain covenants, conditions, restrictions, easements, servitudes and other provisions running with the land and binding title to the land and all owners of any portion or interest therein.

Proposed

EXHIBIT "B "**DEED RESTRICTION
OCCUPANCY PERIOD AND USE OF THE PROPERTY**

As a material consideration inducing the grantor under the attached deed ("Seller") to sell to the grantee under such deed ("Buyer") that certain real property described in this Deed (the "Property"), Buyer has represented to Seller that Buyer intends to, and will occupy the Property as Buyer's primary residence for a period of at least twelve (12) months after Buyer's acquisition of the Property (the "Occupancy Period"). Seller and Buyer have entered into a separate unrecorded agreement (the "Agreement") pursuant to which Buyer has agreed to occupy the Property as provided herein, and Buyer has agreed not to sell, lease or otherwise transfer the Property for the duration of the Occupancy Period, subject only to certain exceptions described herein. This Deed Restriction is to put third parties on notice of such commitments by Buyer, and Seller's rights upon a breach of such commitments by Buyer, as provided in the Agreement and nothing contained in this Deed Restriction shall, or shall be deemed to, modify or amend the Agreement in any respect. In the event of any conflict between the provisions of the Agreement and the provisions of this Deed Restriction, the provisions of the Agreement shall prevail. Notwithstanding the foregoing, this Deed Restriction includes certain mortgagee protections, which shall be in addition to, and shall not be superseded by, the mortgagee protections in the Agreement.

Buyer acknowledges that Seller, as a developer and builder of single family and multi-family residences, has an interest in ensuring that such residences, and the communities in which they are built, including the Property and the community which the Property is a part (such community being referred to herein as the "Community" or the "Benefited Property") are purchased and occupied only by persons who will actually occupy them as a primary residence.

1. **Occupancy Covenants.** Buyer, on behalf of itself and its successors and assigns, hereby covenants to and for the benefit of Seller that, during the Occupancy Period: (a) Buyer will occupy the Property as Buyer's primary residence after closing; and (b) Buyer shall not enter into any agreement for the sale, lease or other transfer of the Property which would result in Buyer's failure to hold title thereto in fee simple for the duration of the Occupancy Period as provided in this Restriction or the Agreement.

2. **Permitted Transfers; Hardship Exceptions.**

(a) **Permitted Transfers.** The following transfers ("Permitted Transfers") of title to the Property, or any estate or interest therein shall not constitute a breach of the foregoing covenants; provided, however, as a condition to being deemed a "Permitted Transfer," the transferee must sign a written acknowledgement agreeing to be bound by the terms of the Agreement and this Deed Restriction, and this Deed Restriction and the Agreement shall continue to burden the Property following such conveyance: (a) a good-faith transfer by devise or inheritance to Buyer's spouse or issue, (b) a taking of title by a surviving joint tenant, (c) a court-ordered transfer of title to a spouse as part of a divorce or dissolution proceeding, (d) a transfer by Buyer to an inter vivos trust in which Buyer is a beneficiary, or (e) an acquisition of title, or of any interest therein, in conjunction with marriage.

(b) **Hardship Exceptions.** Notwithstanding the restrictions on transfers referenced above, Seller recognizes that a transfer of the Property may be desirable in certain circumstances and Seller may, in its sole and absolute discretion decided on a case-by-case basis, consent to a transfer of the Property during the Occupancy Period. Furthermore, Seller shall not unreasonably withhold its consent to a transfer in the following instances:

- (i) A transfer necessitated by the death of Buyer or Buyer's spouse;
- (ii) A transfer, conveyance, pledge, assignment or other hypothecation to secure the performance of an obligation, which transfer, conveyance, pledge, assignment, or hypothecation will be released or reconveyed upon the completion of such performance;
- (iii) A transfer in connection with a significant negative change in the financial circumstances of Buyer from Buyer's financial circumstances when Buyer acquired the Property, as evidenced by documentation reasonably acceptable to Seller;
- (iv) A transfer necessitated by a medical condition of Buyer or another person living with Buyer (or dependent on Buyer) for whom Buyer is the primary caretaker, as evidenced by documentation reasonably acceptable to Seller;

- (v) A transfer in connection with a temporary (more than 6 months) or permanent employment related relocation of Buyer or Buyer's spouse, as evidenced by documentation reasonably acceptable to Seller;
- (vi) A transfer in connection with military activation or otherwise arising in connection with military service; or
- (vii) A transfer which, in Seller's sole judgment, constitutes a "hardship" situation consistent with the intent of this Deed Restriction.

3. **Automatic Termination of Deed Restriction.** The covenants set forth above, and the restrictions on transfer of the Property set forth herein, shall automatically terminate and be of no further force and effect, without the need to record any further instruments, on the date which is twelve (12) months after the date of recordation of this Deed; provided, however, that the termination of the Restrictions shall not cause the termination of any similar or related restrictions in the recorded CC&Rs affecting the Property and any similar restrictions therein.

4. **Remedies for Breach.** If Buyer or Buyer's successors assigns, breaches, violates or fails to perform or satisfy any of the covenants set forth in the Agreement, Seller, and Seller's successors and assigns, may enforce the remedies set forth in the Agreement including, without limitation, the right and option to recover all "Appreciation" in value of the Property upon a sale of the Property in violation of the Agreement, determined as provided in the Agreement, and Buyer's obligation

5. to pay the Appreciation shall constitute a lien on the Property which shall run with the land and shall be binding on successors and assigns and Seller may foreclose such obligations as a mortgage, consistent with A.R.S. § 33-700, *et seq.* In the event the breach is a result of the lease of the Property, Seller may elect to re-purchase the Property for the Purchase Price (as defined in the Agreement), which shall be free and clear of liens and encumbrances, shall be thirty (30) days after Seller's written notice of its election to repurchase the Property, and shall be specifically enforceable by Seller. In the event of any lease, the lessee shall take subject to the rights of Seller, and upon any foreclosure, Seller may elect to terminate the lease.

6. **No Duty to Enforce.** Seller makes no representation or warranty to Buyer that Seller will impose these requirements on other buyers of homes in the Community and/or that, if Seller has imposed or in the future imposes these requirements on another buyer, that Seller will enforce the requirements set forth in this Deed Restriction against other owners in the Community. Buyer specifically acknowledges and agrees that Seller is not guaranteeing Buyer or assuring Buyer in any way that the Community will now or in the future be occupied only or primarily by owner occupants and/or that there will not be buyers in the Community who are purchasing homes in the Community for rentals or as an investment, with no intention of living in the home. Buyer further acknowledges that Seller has not represented or warranted that the Property will increase in value over time.

7. **Survival of Covenant on Transfer.** Except as provided in Paragraph 9, below, Buyer's obligations, and Seller's rights hereunder and under the Agreement shall survive any transfer of the Property by Buyer.

8. **No Unreasonable Restraint.** Buyer agrees that the provisions and restrictions set forth in this Deed Restriction do not constitute an unreasonable restraint upon alienation of the Property.

9. **Survival; Severability.** All of the covenants contained herein shall survive the delivery and recordation of the deed conveying the Property from Seller to Buyer. The provisions of this Deed Restriction shall be independent and severable, and a determination of invalidity or partial invalidity or enforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision of this Deed Restriction or the Agreement.

10. **Mortgagee Protection Provisions.**

- a) **Permitted Financing.** Notwithstanding anything to the contrary in this Deed Restriction or in the Agreement, Buyer may encumber the Property as security for a loan made by an institutional lender, the proceeds of which are used only to purchase the Property, improve the Property or both.

- b) **Subordination.** Seller hereby acknowledges and agrees that a violation of this Deed Restriction by Buyer shall not defeat or render invalid the lien of any first or second purchase money mortgage or deed of trust in favor of an institutional lender and made in good faith and for value by Buyer, and that the covenants and provisions of this Deed Restriction shall be inferior and subordinate to the lien of any such first or second purchase money mortgage or deed of trust made by an institutional lender, whether recorded concurrently with or subsequent to the deed conveying the Property to Buyer.
- c) **Termination on Foreclosure.** This Deed Restriction and the Agreement are subject and subordinate to any first or second priority purchase money deed of trust or mortgage on the Property made by or held by an institutional lender. Any party and its successors and assigns, receiving title to the Property pursuant to a judicial or non-judicial foreclosure, or by any conveyance in lieu of such foreclosure, under a power of sale contained in such a first or second priority purchase money mortgage or deed of trust recorded against the Property in the Office of the Recorder of the County in which the Property is located shall take title free and clear of the provisions of this Deed Restriction and the Agreement.
- d) **HUD or VA Insured or Guaranteed Mortgages.** If Buyer has acquired the Property by a mortgage insured by the Secretary of the United States Department of Housing and Urban Development, or guaranteed by the United States Department of Veteran's Affairs, then this Deed Restriction and the Agreement, shall automatically terminate if title to the Property is transferred by foreclosure or deed-in-lieu of foreclosure, or if the insured or guaranteed mortgage is assigned to the Secretary or the VA.
- e) **Insurance Proceeds and Condemnation Award.** In the event the Property is damaged or destroyed, or in the event of condemnation, Seller shall have no claim or right to any proceeds thereof and such proceeds shall be held and distributed in accordance with the terms of any lien on the Property, in their order of priority.

11. **Covenant Running with the Land.** The Property shall be held and conveyed subject to the terms set forth in this Deed Restriction. The covenants contained herein are intended and shall be construed as covenants and conditions running with and binding the Property and equitable servitudes upon the Property and every part thereof; and subject to the next paragraph in this Paragraph 10, are for the benefit of the Benefited Property. Furthermore, all and each of the terms hereunder shall be binding upon and burden all persons having or acquiring any right, title or interest in the Property (during their ownership of such interest), or any part thereof, and their successors and assigns; and subject to the next paragraph in this Paragraph 10, shall inure to the benefit of the Benefited Property and all persons having or acquiring any right, title or interest in the Benefited Property, or any part thereof, which shall be deemed the dominant tenement for purposes of this Instrument. This Instrument is intended to bind and benefit said persons only and is not intended to be, nor shall it be construed as being, for the benefit of adjoining property owners or any other third party.

In the event that fee title to any portion of the Benefited Property is or has been conveyed by Seller to a third party (a "Transferred Parcel"), the terms of this Instrument shall cease to benefit said Transferred Parcel. Any merger of Seller or Seller's parent company with or into another entity or any acquisition of all or a portion of the stock or equity of Seller or Seller's parent company by a third party will not be deemed a conveyance of the Benefited Property triggering the applicability of this paragraph.

In witness whereof, Buyer has entered into this Deed Restriction as of the day and year this Deed is recorded.

Bienvenido V. Fama

Buyer

3/06/06

Date

Henrik Fama

Buyer

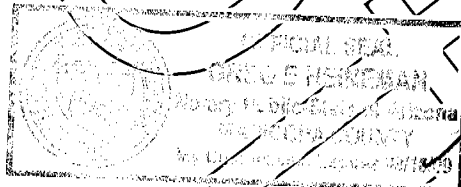
3/06/06

Date

STATE OF ARIZONA

County of Maricopa

This instrument was acknowledged before me this 6 day of March, 2006, by Bienvenido V. Fama, known to me to be the person whose name is subscribed to the foregoing document.



Notary Public

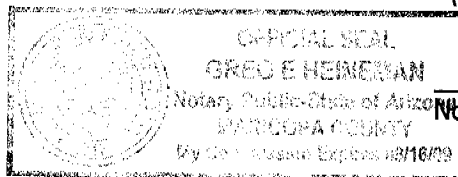
My commission expires:

08/16/2009

STATE OF ARIZONA

County of Maricopa

This instrument was acknowledged before me this 6 day of March, 2006, by Noemi S. Fama, known to me to be the person whose name is subscribed to the foregoing document.



Notary Public

My commission expires:

08-16-2009