TITLE 7 – BUSINESS AND COMMERCIAL CODE
CHAPTER 5- SECURED TRANSACTIONS

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Legislative History: *Enacted on March 24, 2010 by Resolution No. C03-49-10 and Ordinance No. 8-10 Pursuant to the authority contained in Article VI of the Constitution of the Pascua Yaqui Tribe.*

Section 10 Title (7 PYTC § 5-10)

The Ordinance shall be known as the "Secured Transactions Ordinance."

Section 20 Purpose (7 PYTC § 5-20)

The purpose of this Ordinance is to recognize that under the law of the Pascua Yaqui Tribe, a federally recognized Indian tribe (the "Tribe"), except as otherwise provided in this Ordinance, secured parties shall have the same rights with respect to collateral subject to the sovereign authority of Tribe as would exist if all aspects of the security interest (including but not limited to its creation, attachment, perfection and priority) had been governed by the Arizona UCC, without regard to the choice of law principles set forth therein.

Section 30 Definitions (7 PYTC § 5-30)

In this Ordinance, the terms listed below have the following meanings:

(A) "Arizona UCC" means Articles 1, 8 and 9 of the Uniform Commercial Code as enacted in Chapter 47 of the Arizona Statutes, as amended from time to time in accordance with the laws of the State of Arizona.

(B) "Pledged Revenues" means all of a Tribal Party's money, earnings, income and revenues, (and any proceeds thereof), and all of the Tribal Party's rights to and interest with respect to receiving the foregoing before actual possession thereof, whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, in which such Tribal Party has granted a security interest to a secured party in a writing signed by the Tribal Party.

(C) "Tribal Lands" means all lands within the Tribe's reservation and all lands held by the United States in trust for the benefit of the Tribe or individual members of the Tribe over which the Tribe exercises jurisdiction.

(D) "Tribal Party" means any of the Tribe and any division, subdivision, branch, department, board, committee, commission, agency, enterprise, instrumentality, or entity wholly owned or wholly controlled, directly or indirectly, by the Tribe, along with the successors and assigns of each.

Any undefined terms that are defined in the Arizona UCC are used in this Ordinance with the meanings that apply in the Arizona UCC.

Section 40 Scope (7 PYTC § 5-40)

(A) This Ordinance shall apply to all security interests and collateral subject to the sovereign authority of Tribe to the same extent provided in Section 47-9109 of the Arizona UCC, except that provisions of Section 47-9109(D)(14) of the Arizona UCC shall be ineffective to limit the application of the Arizona UCC in accordance with this Ordinance.

(B) This Ordinance is intended to be a law, within the meaning of Section 47-9307(C) of the Arizona UCC, which generally requires information concerning the existence of a non-possessory security interest to be made generally available in a filing, recording, or registration system as a condition

or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

Section 50 Laws Applicable to Security Interests (7 PYTC § 5-50)

(A) With respect to any security interest to which this Ordinance applies, except as provided elsewhere in this Section IV, the rights and obligations of any person shall be governed under the law of the Tribe by reference to the Arizona UCC, including those rights and obligations related to enforcement of a security interest or arising after a default.

(B) Except as provided elsewhere in this Section IV, the perfection, effect of perfection or non-perfection and priority of any security interest to which this Ordinance applies shall be determined in accordance with the Arizona UCC as if each debtor were (for purposes of Sections 47-9301 through 47-9307 of the Arizona UCC) located in the State of Arizona and as if the Tribal Lands were located in the State of Arizona.

(C) Notwithstanding any provision of the Arizona UCC or this Ordinance to the contrary, a security interest granted by a Tribal Party in Pledged Revenues shall be created and attach upon the giving of value and the granting of such security interest in a writing executed by that Tribal Party. Such security interest may be perfected only by the filing of an initial financing statement in the same manner and in the same location as if all of such Pledged Revenues were accounts.

(D) For the avoidance of doubt, no UCC financing statement shall be required to be filed with the Tribe, nor shall any filing, if filed, be effective.

Section 60 Amendment (7 PYTC § 5-60)

Once applicable to any security interest, this Ordinance shall remain in effect with respect to that security interest until all obligations secured thereby have been fully and finally discharged or otherwise fully satisfied, except that this Ordinance may be amended, with prior notice to each secured party, only to the extent such amendment is not adverse in any way to any secured party with respect to any security interest.

Section 70 Effective Date and Repealer (7 PYTC § 5-70)

(A) To the extent any provision of any law, ordinance, resolution, motion or any other action of any Tribal Party heretofore taken is in conflict with any provision of this Ordinance, the provision of this Ordinance shall supersede and the conflicting provision shall be and hereby is repealed.

(B) This Ordinance is effective upon the date of its enactment.

Section 80 No Waiver of Immunity (7 PYTC § 5-80)

Nothing in this Ordinance shall waive or impair the Tribe's sovereign immunity or the sovereign immunity of any other Tribal Party.

Section 90 Code Reviser Discretion (7 PYTC § 5-90)

The Code Reviser of the Pascua Yaqui Tribe is hereby authorized to insert this Ordinance as Title 7, Chapter 5 of the Pascua Yaqui Code, to include a section on legislative history, and to renumber the sections hereof in accordance with Title 1 Chapter 1 of the Pascua Yaqui Code, the Codification Ordinance, without further action or approval.