

# Copper Canyon Ranch CC&R's

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OFFICIAL RECORDS OF GILA COUNTY, ARIZONA

By Linda Haught Ortega MICROFILMED  
County Recorder

**AMENDED RESTATED  
DECLARATION OF COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS  
OF COPPER CANYON RANCH**

This amendment replaces the restrictions recorded in Docket 822, page 920-935, to the Declaration of Covenants, Easements, Conditions, and Restrictions is hereby made this \_\_\_\_\_ of June, 1993, by COPPER HILLS RANCH LIMITED PARTNERSHIP (hereinafter CHRLP), a Nebraska limited partnership, as Trustee, as legal owner; and FIRST AMERICAN TITLE INSURANCE COMPANY (hereinafter "FATCO"), a California Corporation, execute this First Amendment to Declaration of Covenants, Easements, Conditions, and Restrictions, to run with the real property herein described herein:

Lots 1 through 53, and Tracts A, B, C, and D, Copper Canyon Ranches 1, a subdivision of Gila County, Arizona, as recorded in Map No. 633-633-F (hereinafter referred to as "the Property").

The Declaration of Covenants, Easements, Conditions, and Restrictions this amends were recorded on February 13, 1991, in Docket 822, pages 920-935, in the records of the Gila County Recorder's Office, Gila County, Arizona.

The provision of the Declaration of Covenants, Easements, Conditions, and Restrictions are amended as follows:

RECITALS

A. FATCO holds legal title, and CHRLP, as beneficiary, to the property described as Lots 1 through 53, and Tracts A, B, C, and D, Copper Canyon Ranches 1, a subdivision of Gila County, Arizona as recorded in Map No. 633-633-F (hereinafter referred to as "the Property").

B. Declarants, and each of them, intend by this Declaration to impose upon all of the Property, and each of the parcels thereof, mutually beneficial covenants, easements, conditions, and restrictions of hereinafter provided for in this Declaration under a general plan of development, improvements and use for the benefit of all of said Property, the various parcels thereof as now or hereinafter existing, and all of the owners thereof and their respective

heirs, personal representatives, successors, and assigns, all as hereinafter set forth.

NOW THEREFORE, Declarants, and each of them, hereby declare that the Property, and each and every parcel or portion thereof, shall be hereafter owned, held, sold, conveyed, transferred, mortgaged, encumbered, leased, rented, improved, developed, occupied, possessed, and used subject to and in accordance with and/or with burden of the following declarations, covenants, easements, conditions, restrictions, and limitations, all of which are hereby declared and should be construed in such manner to be for the purpose of enhancing, ensuring, and protecting the value, attractiveness, quality, development, and mutual beneficial use of the Property, and every parcel and part hereof, and the improvements now or hereafter located thereon, all in accordance with this Declaration, and any permitted amendment or supplement hereof from time to time hereafter made. All of the declarations, covenants, easements, conditions, restrictions, and limitations herein set forth shall run with and be binding upon each and every parcel or part thereof, and upon Declarants and owners, and each of them, and their respective heirs, personal representatives, successors, and assigns, as owners, of or any interest in and to said Property now and/or hereafter, and upon all other persons and entities having or hereafter acquiring right, title, interest, or claim in and to the Property and/or any part thereof.

#### I. DEFINITIONS.

1.01 "Architectural Control Committee" shall mean and refer to the committee provided for in Paragraph IV of this Declaration.

1.02 "Article" shall mean and refer to the Articles of Incorporation for the Association, as the same may be amended from time to time hereafter.

1.03 "Association" shall mean and refer to the Copper Canyon Ranch Association, an Arizona non-profit corporate membership association, its successors and assigns.

1.04 "Code" refers to the Gila County codes or zoning regulations.

1.05 "Declarants" shall mean and refer to the Declarants named and described on Page 1 hereof, including without limitation their respective heirs, personal representatives, successors, and assigns.

1.06 "Declaration" shall mean and refer to this Declaration of Covenants, Easements, Conditions, and Restrictions, as the same may be amended or supplemented from time to time as permitted hereunder.

1.07 "Member" shall mean a person entitled to membership in the Association as provided for in this Declaration. All persons who are members because of their joint ownership of a particular parcel of the Property shall be counted as one.

1.08 "Mortgage" shall include a deed of trust as well as real property mortgage. A "First Mortgage" shall mean a real property mortgage or deed of trust which is recorded and has first priority over all other mortgages and deeds of trust as to the property covered thereby, and which was made in good faith and for value.

1.09 "Mortgagee" shall include a beneficiary, holder, and trustee of a deed of trust as well as the mortgage of a real property mortgage.

1.10 "Mortgagor" shall include the trustor of a deed of trust as well as mortgagor of a real property mortgage.

1.11 "Owner" shall mean and refer to the record owner, whether one or more persons on entities, of fee simple title or equitable title under an agreement or contract for sale, but excluding those who have such interest merely as security for the payment of indebtedness and/or performance of any obligation.

1.12 "Parcel" refers to the individual lots.

1.13 "Person" shall mean a natural person, a corporation, a partnership, a trustee, or other legal entity capable of ownership of real property in the State of Arizona.

1.14 "Property" refers to the entire project.

1.15 "Roadways" shall include all roads and rights of way which, pursuant to this Declaration, the Association owns, or is obligated to maintain. The roadways within the Property are private roads and are designated on the recorded subdivision plat of the Property as Tracts A, B, C, and D. Upon formation of the Association, said Tracts A, B, C, and D are to be conveyed to the Association.

## II. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

2.01 Formation of the Association. The Association shall be formed subsequent to the time of the recordation of the Declaration.

2.02 Membership. There shall be two (2) classes of Members of Copper Canyon Ranch Property Owners' Association. Class "A" Members shall consist of the Owners other than the Declarant with regard to the Parcels of the Property. The Class "B" Members shall consist of the Declarant as a separate Member for each Parcel of the Property that is unsold at the time of such determination of membership. In addition, when the Declarant have five (5) or less numbered

Parcels, all of the Class "B" membership shall cease and terminate and be automatically converted to Class "A" memberships.

The Owner of any Parcel or part of the Property shall automatically, upon becoming the Owner of same, be a Member of the Association, with full right to vote in the manner hereinafter set forth for each Parcel owned 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. Purchase of a Parcel or portion of the Property shall constitute the Owner's consent to the acceptance of the duties and responsibilities of membership in the Association.

2.03 Transferred Membership. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale of a Parcel or portion of the Property to which it is appurtenant, and then only to the purchaser of or person acquiring title to such Parcel or portion of the Property. Any attempt to make any other transfer shall be void and of no force and effect.

2.04 Voting of the Membership. Each Class "A" membership of the Association shall be entitled to one (1) vote and each Class "B" membership shall be entitled to three (3) votes for each parcel of Property owned. When more than one person holds an interest in any parcel of Property, all such persons shall be Members, provided, however, the vote for such acreage owned shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any parcel of Property. Unless otherwise specified in this Declaration, all voting shall be on a majority basis with those Members, present in person, or by proxy, representing a majority vote consisting a quorum for any duly called meeting of the membership in accordance with the Association By-laws.

### III. POWERS OF THE ASSOCIATION.

3.01 Powers of the Association. In addition to the duties and powers enumerated elsewhere in this Declaration and not in limitation, the Association shall have the right and authority to:

(a) Enforce and administer through legal action or otherwise, applicable provisions of this Declaration;

(b) Take such acts or actions as are necessary, in the reasonable discretion of the Members, for the betterment of the Property and for the general benefit and welfare of the owners, all in accordance with the purposes of the Association;

(c) The Association shall maintain and be charged with the responsibility of maintaining the access roadway from the point of its intersection with a governmentally maintained roadway to the subdivision, and all interior roadways. Inclu-

ded as a portion of the roadways are any subdivision signs or entryway signs within the roadway rights-of-way. The Association shall cause same to be maintained in accordance with the applicable Code provisions for the benefit of the Property, and Parcels thereof, as the same now or hereafter from time to time may exist, and in a manner best suited as determined by the Association for use for the Property. The Association shall have the power to dedicate the roadways (or any portion thereof) to a governmental body, who shall be responsible to maintain the roadways so dedicated;

(d) Grade and maintain the roadways as needed, provide for proper drainage of roadways, install culverts where necessary;

(e) Submit an annual budget to the Owners of Parcels within the Property;

(f) Submit statements for assessment amounts due pursuant to and as provided for in this Declaration to the Owners of Parcels within the Property;

(g) Prepare an annual accounting, rents, and other impositions to any assets owned by the Association and undertake any action or proceedings seeking to reduce such taxes, assessments, rents, or other impositions;

(h) Pay all taxes, assessments, rents, and other impositions to any assets owned by the Association and undertake any action or proceedings seeking to reduce such taxes, assessments, rents, or other impositions;

(i) Negotiate and enter into and supervise the performance of contracts covering the construction of any improvements or any necessary replacements, repairs, alterations, or protective actions in connection with the roadways;

(j) Keep books of account and other records of the Association's management; keep vouchers, statements, receipted bills and invoices and all other records covering all collections, disbursements, and other data; to permit the Owners and Members, or any agent or representative thereof, at any reasonable time, to review and inspect such books, records, and accounts relating to the Association's functions;

(k) Employ and coordinate the services of employees, supervisors, management agents, accountants, and other persons necessary or appropriate to carry out the operation and maintenance of the roadways and its function as the Architectural Control Committee;

(l) Pay all insurance premiums, debts, and other costs of maintenance of the roadways;

(m) Subject to the provisions of this Declaration, maintain, care for, and otherwise manage the roadways, including but not limited to the performance of labor and supervision and maintenance services, maintenance of the roadways in as good condition (deterioration loss by damage due to environmental occurrences which cannot be reasonable avoided or insured against excepted);

(n) Comply with all present and future laws, ordinance, orders, rules, regulations, and requirements which may be applicable to the Property and the roadways and the operation and management thereof;

(o) Perform any other obligation provided elsewhere in this Declaration to be performed by the Association; and

(p) Supervise all matters coming within the terms of this Declaration.

#### IV. ARCHITECTURAL CONTROL.

4.01 Construction Approval. No residence, mobile home, outbuilding, fence or wall, or other improvement or installation, shall be commenced, erected, placed, or altered on any Parcel, until the plans and specifications therefore, showing the nature, kind, shape, materials, floor plans, and locations, shall have been submitted to, and approved by the Architectural Control Committee ("Committee") and a copy thereof is finally approved and lodged permanently with the Committee. The Committee shall have the right to refuse to approve any such plans or specifications which are not suitable or desirable in its option for aesthetic reasons, or any other reason, and in so passing upon such plans and specifications it shall have the right to take into consideration the suitability of the proposed building or other structure, and the material which is to be used, the site upon which it is proposed to be erected, the harmony with the surroundings, and the effect of the proposed structure on the outlook from adjacent or neighboring property.

4.02 Membership. The Committee shall be initially composed of Bernard Comeau and L. Paul Comeau, their successors and assigns. When fifty percent (50%) of the parcels have been sold by the Declarants then, the function of the Committee shall be assigned to the Association. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this covenant, but shall be entitled to reimbursement for reasonable costs expended, as approved by the Association. The members of the Committee shall incur no liability whatsoever for acting in such capacity, except for proven bad faith acts or omissions.

4.03 Procedure. The Committee's approval or disapproval as required in this Declaration shall be in writing. Actions of the Committee shall be by the majority vote of the members of the Commit-



tee. All decisions of the Committee shall be final and no Parcel Owner or other party shall have recourse against the Committee or its designated representative, fails to approve or disapprove within sixty (60) days after the plans and specifications have been submitted to it, the plans and specifications shall be deemed to have been approved.

V. ASSESSMENT.

5.01 Covenant for Maintenance Assessments and Creation of Lien and Personal Obligation. The Declarants, for each Parcel owned within the Property, hereby covenant, and each such other of a Parcel by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following:

- (a) Annual Assessments or charges; and
- (b) 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 attorneys fees, incurred in enforcement and/or collection of such assessments, shall be a charge on the Parcels of the Owners responsible and liable for such assessment and shall be a continuing lien upon such Parcel and against which each such assessment is made. Each Owner does hereby grant and convey a security interest in his Parcel as security for the performance of the obligation relating to annual interest; costs and reasonable attorneys fees shall also be the personal obligation for the delinquent assessment and shall pass to any Owners and successors in title.

5.02 Purpose of Assessments. The assessments levied by the Association for the services furnished or secured by the Association hereunder, such amount as may be established by the Association on a semi-annual or annual basis. Such amount so assessed shall be reasonable and shall be based upon the cost of operation, maintenance, repair, and replacement of the roadways and for the operation of the Architectural Control Committee.

5.04 Special Assessments for Capital Improvements. In addition to the annual assessments authorized in paragraph 5.01 hereinabove, in any assessment year the Association may levy a special assessment applicable to that year only, or to pose of defraying, in whole or in part, the cost of any reconstruction, replacement, or repair of the roadways capital improvements, as prescribed by the Association together with reasonable amounts of working capital as shall be established from time to time by the Association.

5.05 Rate of Annual Assessment. Annual assessments must be fixed at rates for the Parcels based upon the anticipated annual

costs. The rate shall be on an equal basis for each Parcel, regardless of the amount of acreage contained in said Parcel. The Association shall prepare budgets for such annual assessments from time to time, changing them to reflect reasonable assumptions as to anticipated expenses relating thereto. Assessments shall be based upon assumptions based upon the best information available at the time of such assessment, and may be prospective.

5.06 Date of Commencement of Annual Assessments; Due Date. The annual assessments provided for herein shall commence as to any Parcel conveyed by Declarants as of the date of its conveyance, prorated on an annual calendar year basis. The term "conveyed" shall mean the recording of the deed or agreement or contract for sale from Declarant, or its assigns, to a Parcel Owner. (Declarants shall not be subject to any annual assessment until such time as Declarants have five (5) or fewer Parcels. Provided, however, CHRLP shall be responsible for any roadway maintenance costs over and above assessments payable by Parcel Owners, up to the amount of the regular assessments which would otherwise be payable, during such period of time as Declarants are exempt from paying annual assessments. Written notice of the annual assessment shall be sent to every Owner subject thereto at least ten (10) days in advance of the due date of any annual assessment. The initial annual assessment shall be set at \$60 for each Parcel. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Parcel have been paid. \*

5.07 Affect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%), compounded annually. In addition, a delinquency service fee of FIVE AND no/100 DOLLARS (\$5.00) for each month past due shall be assessed. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Parcel.

5.08 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of only a first mortgage. Sale or transfer of any Parcel shall not affect the assessment lien. However, the sale or transfer of any Parcel pursuant to the Mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to the payments which become due prior to such sale or transfer, but shall not relieve the Owner from the responsibility to pay same. No sale or transfer shall relieve such Parcel from liability for any assessments thereafter becoming due or from the lien thereon.

5.09 Expansion. Declarants may, by written recorded document so stating, expand the Association to include additional lands similarly situated which may in the future be acquired by Declarants of their successors. \*

5.10 Recorded Lien. The assessments, whether they be annual assessments or special assessments, shall become a lien against the property. The failure of the Owner of a Parcel to pay the assessment when due shall entitle the Homeowner's Association to record a lien against the property at the county recorder's office. This lien shall bear interest at the rate charged by Gila County for the nonpayment of real property taxes. The lien shall also entitle the Homeowner's Association to recover any costs and fees incurred in the collection of the assessment including attorney fees. Upon recording of the lien, the Homeowner's Association may foreclose on the lien using any legal processes permitted by the State of Arizona.

## VI. USE RESTRICTIONS.

6.01 Intent and Purpose. The intent and purpose is to abide by the Gila County Regulations defined under Suburban Ranch district; to preserve and promote the beneficial aspects of rural living by providing a zone classification for low density single family residential development on large tracts with related low intensity agricultural uses and minimal commercial activity.

6.02 Trash Removal. No Property Owners shall allow or cause to be allowed within the boundaries of his Property an area for collection or storage of any garbage, trash, rubbish, or refuse of any kind except in a sanitary container. All such material shall be removed by the Owner on a regular basis or destroyed in a manner satisfactory to county regulations.

6.03 Storage. Up to five percent (5%) of a Parcel area may be used for unenclosed storage of items necessary for operation and maintenance of the household or other permitted activities, provided that such storage be maintained in a neat and orderly manner. Such storage shall be maintained a minimum of 100 feet from the nearest property line; provided, however, that this distance may be waived by mutual written agreement by adjacent Property Owners or if the adjacent Property is shielded by an opaque fence or wall a minimum of six (6) feet in height. Nothing in this section shall be construed to restrict the storage of firewood for use by the occupants of the premises.

6.04 Inoperable Vehicles and Equipment. The 100 foot side and rear yard set back shall not be used for repair or storage of inoperable motor vehicles or equipment; nor shall there be permitted the repair or storage of more than one unregistered, inoperable motor vehicle within the property boundaries.

6.05 Hazardous Materials and Nuisances. No hazardous material shall be used or stored in such a manner as to constitute a fire or explosion hazard or cause to be emitted into the atmosphere smoke, soot, dust, radiations, odors, noise, vibration, heat, glare, or toxic fumes to such extent as to constitute a nuisance, or to such an extent as to cause pollution of the ground water, or in any manner to violate applicable laws. No activities of the home-

owner will be permitted which constitute a pollution or violation of the environmental laws of the State of Arizona, Gila County, or the United States.

6.06 Livestock. The keeping of domestic livestock shall be permitted with the following stipulations:

(1) Buildings for the housing of livestock shall be confined to the rear one-half (1/2) of the Property or shall be located no closer than 100 feet from a front or side street property line or 50 feet from a rear or interior property line.

(2) It shall be the responsibility of the livestock owner to ensure that all livestock is kept confined within the Property boundaries.

(3) The keeping of dangerous, wild, exotic, or non-domestic animals shall be prohibited.

(4) All domestic animals shall be kept and maintained in such a manner as to conform with all applicable state and county health requirements and to cause a minimum disruption to neighboring Property Owners in terms of noise, odor, and insect and vermin infestation.

(5) There shall be no more than a combination of three (3) horses or cattle and a combination of five (5) sheep or goats and a combination of forty (40) rabbits or poultry for each Parcel, unless Architectural Control Committee approval has been obtained in advance.

(6) No swine shall be permitted.

(7) No structure may be erected closer than six (6) feet from any other structure unless joined by a breezeway or unless approval is granted by the Architectural Control Committee.

6.07 Construction. No building or structure intended for, or adapted to business purposes, multiple family dwellings, medical facilities, or any dwelling which may be used for the lodging of paying guests, shall be erected, placed, permitted, or maintained on said property. Construction shall be limited to conventional, prefabricated, or precut type with the following exceptions. Mobile or module homes no older than five years as evidenced by certificate of title, at the time of its installation. The units must exceed 720 square feet of living space plus a minimum of 280 square feet of covered patio and/or carport area, affixed to permanent foundation and for which an Affidavit of Affixture has been issued by the Office of the Gila County Assessor. No reflective roof or sidings are allowed. All mobile type homes must be skirted. All construction, including alteration and remodeling in all mobile homes are subject to Architectural Control Committee approval prior to commencing of any construction or installation of any such improvement. A camping

trailer, motor home, travel trailer, or tent shall be permitted on the lot only for the purposes of vacations by the Parcel Owner.

6.08 Off-Road Vehicles. No all-terrain type vehicles, motorcycles, or other vehicles capable of off-road use shall be allowed to be operated on any of the Property. Nothing herein shall prohibit the legal use of vehicles on roadways.

6.09 Enforcement by the Association. Each Owner shall, according to paragraph 6, maintain his Parcel at his sold cost and expense. In the event the Owner of such Parcel is in violation of the above restrictions, the Association, after proper notification, shall have the absolute right to enter upon such Property and cause the removal of such violation. The Owner of such Parcel shall pay to the Association an amount equal to all direct and indirect costs and expenses incurred by its furnishing of such labor and materials within ten (10) days of receipt of notification of such, or be subject to the enforcement by the Association in accordance with the provision of paragraph 8.01 and paragraph 5.07.

6.10 Subdivision. Unless in compliance with Arizona laws and Gila County Rules and Regulations, no Parcel shall be further subdivided or separated into smaller or different portions or conveyed or encumbered in less than the full original dimensions as set forth in the plat. Dedication, conveyance, or the granting of easements to public utilities or other public or quasi-public entities may be permitted with the prior approval of the Association.

6.11 Grading and Excavation. Grading and excavation shall be performed only to the extent necessary to provide a reasonable construction pad for improvements, access driveways, and uses directly incidental to the occupancy of dwelling units within Parcel boundaries.

## VII. UTILITY EASEMENT.

7.01 Utility Easement. There is hereby created a ten-foot perimeter to be used as a utility easement around the entire Parcel of property and around each parcel of property. This easement shall be upon, across, over and under the property. It may be used for ingress, installation, replacing, repairing, and maintaining roadways, and for the purpose of providing electricity and telephone, ditches, pipelines, and permitting maintenance thereof for the benefit of individual Parcel Owners, their successors, and assigns. By virtue of this easement, it shall be expressly permissible for the Parcel Owners and the Association, its agents subcontractors, and any person or entities acting under the authority or at the instance of the Association to carry out the duties of the Association under this Declaration, including without limitation, erection, construction, and installation, as well as and/or the movement and relocation thereof, where reasonably required to effect the purposes as set forth under this Declaration. This easement shall permit erection

and maintenance of all necessary facilities, including without limitation, poles, ditches, pipelines, electrical wiring, circuits and conduits, and other equipment for the operation and maintenance of the Property, on, above, across, and under the Property and any and all Parcels thereof, together with the reasonable right to trim, cut, fell, and remove therefrom all trees, underbrush, or other vegetation and the right to remove any obstruction within the Property in order to effect the purposes hereunder. This easement shall in no way affect any other recorded easements on or with regard to the Property. Notwithstanding anything herein to the contrary, the easement created by this paragraph shall not be utilized in such a manner so as unduly impair the economic utility and use of the Parcels within the Property, or to unreasonably burden one or more of the Parcels in favor of other Parcels.

7.02 Restrictions of Easements. Notwithstanding the provisions hereof to the contrary, the easements granted herein shall exist and continue only to the extent of the use of facilities. As such facilities are not used, abandoned, or substituted for, such easements shall cease and terminate. In addition, should the Association and/or a landowner need to relocate any easement for efficiency or ease thereof because of interference with its use or any other use, the party so desiring such move shall propose the move to the other party. In the event of no objection, the party desiring the move shall thereupon be authorized to implement the move, and the other party will cooperate with such move, including the execution of documents and any other reasonable or necessary requirements to implement such move, provided that the expense related thereto, other than incidental non-material expenses, shall be borne by the party desiring the move.

#### VIII. GENERAL PROVISIONS.

8.01 Enforcement. In the event of any violation or threatened violation of any of the covenants, restrictions, or conditions herein, the Association, or any Owner of any Parcel in the Property may bring an action at law or in equity for injunction, action for damages or such other remedy as may be available, and in such action shall be entitled to recover such reasonable attorneys fees as are ordered by the court. Failure of the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto, nor shall such failure give rise to any claim or cause of action against the Association, Declarants, or such Owner.

8.02 Invalidity of any Provision. If any provisions or portion of this Declaration or the application of such provisions or portion to any person or circumstances shall be held invalid, or in conflict with any law of the jurisdiction where the Property is situated, the validity of all other provisions or portions hereabove or the application of such provision or portion to persons or circumstances other than those of the jurisdiction, where the Property is



situated, shall not be effected thereby, and the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

8.03 Term. The covenants, easements, conditions, and restrictions of this Declaration shall run with and bind the Property, all Parcels, and subsequent parts thereof and shall inure to the benefit of and shall be enforceable by the Association, the Declarants, or the Owner of any Parcel subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns, for a term of fifteen (15) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of five (5) years unless an instrument in writing signed by the Owners of two-thirds (2/3) majority of the Property (based upon one (1) vote for each acre or portion thereof) has been recorded within the year preceding the beginning of each successive period of five (5) years, agreeing to change this Declaration in whole or in part or to terminate the same.

8.04 Amendments. This Declaration may be amended at any time, but only by the affirmative vote of two-thirds (2/3) majority of the Property (based upon one (1) vote for each acre or portion thereof) as provided hereunder. Any amendment must be recorded and shall become effective upon being recorded in the office of the Gila County, Arizona Recorder. Any amendment to this Declaration, or dissolution of the Association or termination of this Declaration will not require the prior approval of any municipality.

8.05 Effectiveness. The conveyance of the Parcels may contain the above restrictive covenants by reference to this document, but whether or not such reference is made in such deed or any part thereof, each and all of such restrictive covenants shall be valid and binding upon the respective grantees. Violations of any one or more of such covenants may be restrained by any court of competent jurisdiction and damages ordered against such violator; provided, however, the violations or breach of any covenant, restriction, reservations, and/or condition or any right of re-entry by reason thereof shall not defect nor render invalid the lien or any mortgage or deed of trust made in good faith or for value upon any Parcel or Parcels, each and all of said covenants, restrictions, and conditions shall be binding upon and effective against any Owner of a Parcel whose title thereto is acquired by foreclosure, trustee's sale, or otherwise, and provided also that the breach of any of said covenants, restrictions, reservations, and conditions may be enjoined, abated, or remedied by appropriate legal proceedings notwithstanding the existence of any lien, deed of trust, or mortgage instrument.

8.06 Encroachment Easements. Each Owner of a Parcel within the Property is hereby declared to have an easement over all adjoining Parcels for the purpose of accommodating any encroachment due to engineering errors, or any other similar cause. There shall be easements for the maintenance of said encroachments as long as

they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, provided, however, that in no event shall an easement for intentional encroachment be created in favor of an Owner or Owners, or their agents.

8.07 Owner's Right and Obligation to Maintain and Repair. Each Owner as to each Parcel shall, at his or its sold cost and expense, maintain and repair his Parcel and the improvements which are from time to time located thereon. This obligation shall include, without limitation, the maintenance and repair of electric and other utility systems servicing the Parcel and located anywhere upon the Parcel, and all portions of the improvements located thereon to a standard which meets the approval of the Association.

8.08 Taxes. All taxes assessed against Parcels shall be paid before delinquency by the Owner of the Parcel against which the assessment is made.

8.09 Notices. Except as may otherwise be provided by the specific provisions of this Declaration, any notice permitted or required by the Declaration may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered 72 hours after a copy of same has been deposited in the United States Mail, postage prepaid, addressed to the Owner at the current address given by such Owner or addressed to the Parcel of such person if no address has been so given.

8.10 Institutional Lender Protections.

(a) Notwithstanding anything in this Declaration to the contrary, any Institutional Lender who obtains title to a Parcel pursuant to the remedies provided in a mortgage or the foreclosure of a mortgage will not be liable for such Parcel's charges which accrued prior to the acquisition of title to such Parcel by the Institutional Lender.

(b) Unless the Mortgagees and Owners controlling at least two-thirds (2/3) majority of the Property (based upon one (1) vote for each acre or portion thereof, and the votes allocated between Mortgagees and Owners as shall be agreed between each, or in the absence of agreement, in favor of the Mortgagee as to the acreage secured by the Mortgage have been their prior written approval), the Association shall not be entitled to:

(1) Change the method of determining the obligations or charges which may be levied against an Owner; and

(2) By act or omission change, waive, or abandon any of the provisions hereof.

(c) An Institutional Lender, upon request, is entitled to written notification from the Association of any default in the performance by the individual Owner of any Parcel of any



obligation under this Declaration which is not cured within sixty (60) days.

8.11 Owner's Right to Divide. The Declarants, for themselves and for their respective heirs, successors, and assigns, agree to be bound by the Arizona laws and Gila County Rules and Regulations regarding the dividing of individual Parcels. Applications for such division shall be made to Gila County offices for review and approval and in no instance shall a Parcel of less than two and one-half (2 1/2) acres in size be created after such division.

IX. SUCCESSORS AND ASSIGNS.

The provisions of this Declaration shall run with the land and shall be binding upon the successors and assigns of the parties.

IN WITNESS WHEREOF, this Declaration has been executed by the Declarants this 11 day of June, 1993.

DECLARANTS:

FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as Trustee for Trust No. 7798.

By: Roderick N. Collier

Its: Trust Officer

COPPER HILLS RANCH LIMITED PARTNERSHIP, a Nebraska limited partnership.

By: Bernard M. Comeau

Its: General Partner

STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

This instrument was acknowledged before me this 15 day of June, 1993, by RODERICK N. COLLIER as TRUST OFFICER of FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, for and on behalf of said corporation.

Mary L. Leung  
Notary Public

My Commission Expires:  
\_\_\_\_\_

STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

This instrument was acknowledged before me this 10 day of June, 1993, by BERNARD COMEAU as GENERAL PARTNER of COPPER HILLS RANCH LIMITED PARTNERSHIP, for and on behalf of said partnership.

[Signature]  
Notary Public

My Commission Expires:  
10.6.96

**2. Paragraphs 5.02, 5.03 and 5.04 of Article V are revoked and the following is inserted in lieu thereof:**

“5.02 Purpose of Assessments. The assessments levied by the Association for the services furnished or secured by the Association hereunder shall be such amount as may be established by the Association on a semi-annual or annual basis. Such amount so assessed shall be reasonable and shall be based upon the cost of installation, operation, maintenance, repair and replacement of roadways, electrical transmission facilities and for the operation of the Architectural Control Committee.

5.03 Intentionally Omitted.

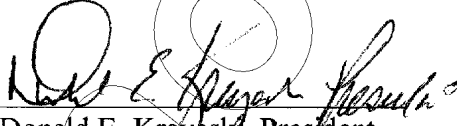
5.04 Special Assessments for Capital Investments. In addition to the annual assessments authorized in paragraph 5.01 hereinabove, in any assessment year the Association may levy a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any installation, reconstruction, replacement, repair of the roadways, electric transmission facilities as prescribed by the Association together with reasonable amounts of working capital as shall be established from time to time by the Association.”


**3. Paragraph 8.04 of Article VIII is amended as follows in lieu thereof:**

“8.04 Amendments. This Declaration may be amended at any time, but only by the affirmative vote of two-thirds (2/3) majority of the Property (based upon (1) vote for each lot or portion thereof) as provided hereunder. Any amendment must be recorded in the office of the Gila County, Arizona Recorder. Any amendment to this Declaration, or dissolution of the Association or termination of this Declaration will not require the prior approval of any municipality.”

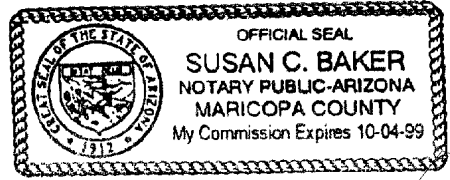
In all other respects, the Members confirm the Declaration as amended, reserving to the Members the right to further amend or revoke the same and this Amendment thereto as is provided in Article VIII, paragraph 8.04 of the Declaration. It is the intent of this Amendment that it be construed as a continuation and a part of the Declaration.

IN WITNESS WHEREOF, the officers of the Association execute this Amendment on behalf of the Members, representing that an “affirmative vote of two-thirds (2/3) majority of the Property” as defined and required in Article VIII, paragraph 8.04 of the Declaration was obtained in support of this Amendment.

  
Donald E. Krayeski, President

  
Bernard Comeau, Secretary

STATE OF ARIZONA )  
 )  
County of Maricopa )      ss.



The foregoing instrument was acknowledge before me this 19 day of May, 1998,  
by Donald E. Krayeski as President of the Copper Canyon Ranches Property Owners Association,  
Inc.

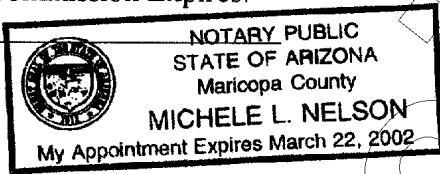
My Commission Expires:  
October 4, 1999

Susan C. Baker  
Notary Public

STATE OF ARIZONA )  
 )  
County of Maricopa )      ss.

The foregoing instrument was acknowledge before me this 7 day of July, 1998,  
by Bernard Comeau as Secretary of the Copper Canyon Ranches Property Owners Association, Inc.

My Commission Expires:



Michele L. Nelson  
Notary Public

Unofficial Copy

When recorded, return to:

Gregory L. Miles

Udall, Shumway, Blackhurst, Allen & Lyons, P.C.

30 West First Street

Mesa, Arizona 85201



**SECOND AMENDMENT TO THE  
AMENDED RESTATED  
DECLARATION OF COVENANTS, EASEMENTS,  
CONDITIONS AND RESTRICTIONS  
OF COPPER CANYON RANCH**

THIS SECOND AMENDMENT to the Amended Restated Declaration of Covenants, Easements, Conditions and Restrictions is entered into this 20<sup>th</sup> day of July, 1998, by the affirmative vote of two-thirds (2/3) majority of the Members of the Copper Canyon Ranches Property Owners Association. This amends as set forth below that certain Amended Restated Declaration of Covenants, Easements, Conditions and Restrictions of Copper Canyon Ranch dated June 10, 1993 and recorded June 21, 1993 at docket 912, pages 318-333, official record of Gila County, Arizona (the "Declaration").

WHEREAS, pursuant to Article VIII, paragraph 8.04, of the Declaration, the "Declaration may be amended at any time, but only by the affirmative vote of two-thirds (2/3) majority of the Property . . . ."

AND, WHEREAS, Article II, paragraph 2.04 provides that each Class "A" membership of the Association shall be entitled to one (1) vote and each Class "B" membership shall be entitled to three (3) votes for each parcel of Property owned.

AND, WHEREAS, the Members of the Copper Canyon Ranches Property Owners Association (the "Association") desire to amend the Declaration on the terms and conditions set forth herein;

**NOW, THEREFORE, the Members of the Association hereby amend the Declaration as follows:**

**1. Paragraph 3.01 of Article III is amended as follows in lieu thereof:**

(q) Negotiate, enter into and supervise the performance of contracts covering the construction of electric transmission facilities.

(r) Issue special assessments to raise the capital needed to construct electric transmission facilities and pay for expenses related thereto."

2. Paragraphs 5.02, 5.03 and 5.04 of Article V are revoked and the following is inserted in lieu thereof:

5.02 Purpose of Assessments. The assessments levied by the Association for the services furnished or secured by the Association hereunder shall be such amount as may be established by the Association on a semi-annual or annual basis. Such amount so assessed shall be reasonable and shall be based upon the cost of installation, operation, maintenance, repair and replacement of roadways, electrical transmission facilities and for the operation of the Architectural Control Committee.

5.03 Intentionally Omitted.

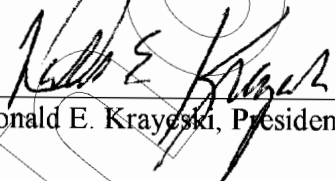
5.04 Special Assessments for Capital Investments. In addition to the annual assessments authorized in paragraph 5.01 hereinabove, in any assessment year the Association may levy a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any installation, reconstruction, replacement, repair of the roadways, electric transmission facilities as prescribed by the Association together with reasonable amounts of working capital as shall be established from time to time by the Association."


3. Paragraph 8.04 of Article VIII is amended as follows in lieu thereof:

8.04 Amendments. This Declaration may be amended at any time, but only by the affirmative vote of two-thirds (2/3) majority of the Property (based upon (1) vote for each lot or portion thereof) as provided hereunder. Any amendment must be recorded in the office of the Gila County, Arizona Recorder. Any amendment to this Declaration, or dissolution of the Association or termination of this Declaration will not require the prior approval of any municipality."

In all other respects, the Members confirm the Declaration as amended, reserving to the Members the right to further amend or revoke the same and this Amendment thereto as is provided in Article VIII, paragraph 8.04 of the Declaration. It is the intent of this Amendment that it be construed as a continuation and a part of the Declaration.

IN WITNESS WHEREOF, the officers of the Association execute this Amendment on behalf of the Members, representing that an "affirmative vote of two-thirds (2/3) majority of the Property" as defined and required in Article VIII, paragraph 8.04 of the Declaration was obtained in support of this Amendment.

  
Donald E. Krayoski, President

  
Bernard Comeau, Secretary

STATE OF ARIZONA )  
 )  
County of Maricopa ) ss.

The foregoing instrument was acknowledge before me this 16<sup>th</sup> day of July, 1998,  
by Donald E. Krayeski as President of the Copper Canyon Ranches Property Owners Association,  
Inc.

My Commission Expires  
NOTARY PUBLIC  
STATE OF ARIZONA  
Maricopa County  
MICHELE L. NELSON  
My Appointment Expires March 22, 2002

Michele L. Nelson  
Notary Public

STATE OF ARIZONA )  
 )  
County of Maricopa ) ss.

The foregoing instrument was acknowledge before me this 20 day of July, 1998,  
by Bernard Comeau as Secretary of the Copper Canyon Ranches Property Owners Association, Inc.

My Commission Expires:  
NOTARY PUBLIC  
STATE OF ARIZONA  
Maricopa County  
MICHELE L. NELSON  
My Appointment Expires March 22, 2002

Michele L. Nelson  
Notary Public