

When Recorded Mail To:  
Arizona Land & Ranches, Inc.  
1020 Sandretto Dr., Suite B  
Prescott, AZ 86301



2001-04517  
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OFFICIAL RECORDS OF APACHE COUNTY  
JEANNE UDALL, RECORDER  
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SASE

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
RED SKY RANCH  
Apache County, Arizona**

The undersigned Declarant previously caused to be recorded that certain Declaration Covenants, Conditions and Restrictions for Red Sky Ranch in the official records of Apache County at fee number 2000-09036 in the office of the Apache County Recorder (the "Original CCRs"). In its capacity as Declarant and pursuant to Paragraphs 6.A and 7.D. of the Original CCRs, Declarant intends to and does hereby amend, replace and restate the Original CCRs in its entirety as set forth below and this instrument shall for all purposes amend, replace and restate the Original CCRs.

THIS DECLARATION, is made by Arizona Land & Ranches, Inc., an Arizona corporation, as to Red Sky Ranch, acting in its capacity as Owner and Developer, along with its successors and designees.

This Declaration is being recorded to establish a general plan for the development, sale, lease and use of the Project in order to protect and enhance the value and desirability of the Project. The Declarant declares that all of the Property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person or entity, for him/herself or itself, his/her heirs, personal representatives, successors, transferees and assigns, binds him/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 development, sale, lease and use of the Property and hereby evidences his/her interest that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Parcels and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Parcel even though the description in the instrument of conveyance or encumbrance may refer only to the Parcel.

## 1. DEFINITIONS

As used herein, the following terms have the following meanings:

- A. "Additional Property" means any real property owned by Declarant which is situated within or adjacent to the vicinity of the Property, together with all improvements located thereon.
- B. "Association" means the Red Sky Ranch Property Owners Association, as referred to in paragraph 2 of this Declaration.
- C. "Bona Fide First Deed of Trust" means any deed of trust or realty mortgage or agreement for sale made in good faith and for value and properly executed and recorded so as to create a lien on any Parcel or Parcels that is prior to the lien of any other deed of trust or realty mortgage.
- D. "Declaration" means this Amended and Restated Declaration of Covenants, Conditions, and Restrictions.
- E. "Declarant" is Arizona Land & Ranches, an Arizona corporation, as Developer of the Property affected herein. The rights and responsibilities of Declarant hereunder shall be exercised and carried out by Arizona Land & Ranches, Inc. and/or its assignees.
- F. "Lessee" is the current person or entity leasing the Grazing Rights, along with the rights to certain existing Registered Waters and certain grazing-related facilities situated on the Property as located and defined on the recorded Plat.
- G. "Owner" shall mean and refer to the Owner of record, whether one or more persons or entities, of fee or equitable or beneficial title to any Parcel, including Declarant and Lessee (as herein defined), as their interest may appear. Owner shall include the purchaser of a Parcel under an executory contract for purchase. The foregoing definition does not include persons or entities who hold an interest in any Parcel as security for the performance of an obligation.
- H. "Parcel" or "Parcels" means a portion of the Project intended for independent ownership and use and designated as a Parcel on the Record of Survey, either individually or collectively as the case may be and all divisions thereof as allowed by law.
- I. "Property" or "Project" means the real property described on Exhibit "A" attached to this Declaration (Red Sky Ranch) together with all improvements located thereon, and all Additional Property, together with all improvements located thereon, which is annexed and subjected to this Declaration by the Declarant pursuant to Paragraph 3 of this Declaration.
- J. "Record Of Survey" means the maps of Red Sky Ranch (regardless of phase or unit number) as recorded in the office of the Apache County Recorder in Apache County, Arizona and all

amendments, supplements and corrections thereto and any subdivision map recorded against any supplements and corrections thereto.

**K.** "Transition Date" means that date specified on or before which the Declarant transfers control of the Association to Owners or at such time as one hundred percent (100%) – of the parcels have been sold or earlier, at Declarant's option

## **2. PROPERTY OWNERS ASSOCIATION.**

**A.** Property becomes subject to the Red Sky Ranch Property Owners Association. The purpose of the Association is: (1) to maintain and improve (a) the roadways, gates, fences and roadway drainage facilities within the Property, (b) any wells and their appurtenances designated as common area, and (c) any other common areas benefiting the Property and designated by Declarant for maintenance by the Association; and (2) to maintain and improve roadways on land not within the Property that lie within public or private easements, but only if such roadways provide access to the Property from highways and roads maintained by public funds. Nothing stated in subpart 2.A(2) shall be construed to require the Association to maintain the roadways described in that subpart.

**B.** Each and every Parcel Owner, in accepting a deed or contract for any Parcel, whether or not it shall be so expressed in such deed or contract, automatically becomes a member of the Association, and agrees to be bound by such reasonable rules and regulations as may, from time to time, be established by the Association. Membership shall be appurtenant and may not be separated from ownership of the Parcel. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon transfer of ownership of such Parcel, whether by intestate succession, testamentary disposition, foreclosure of a deed of trust or a mortgage, or such other legal processes as are now in effect or as may be hereafter established pursuant to the laws of the State of Arizona. The Association shall be operated and conducted on a strictly cooperative and non-profit basis. Each Parcel Owner as a member shall have such voting rights as set forth in this Declaration.

**C.** The Association shall take necessary and appropriate action for the maintenance, repair, replacement, and management of the facilities referred to in subpart 2.A(1) above, and shall have the right to enter upon a Parcel, if reasonably necessary, in order to take such action. The Association may take such action as the Association deems appropriate to maintain or repair the facilities referred to in subpart 2.A(2), above.

**D.** The Association shall have the power to borrow and encumber its assets and, in all respects, shall have the powers set forth herein, including the power to enter into contracts with third parties to perform all or part of its functions, and to hire its own employees to do so. The

Association shall have the power to obtain appropriate insurance, to create reserves, and to issue rules and regulations.

E. Each Parcel Owner is obligated to pay: (1) regular assessments for normal maintenance and repair and reserves, along with Association insurance and operating costs; (2) special assessments for capital improvements with such assessments to be established by the Association. The regular and any special assessments, late payment penalties and charges, if any, together with interest, (all as set by the Association) costs and reasonable attorney's fees, shall be a lien on the Parcel. Each Parcel Owner shall be personally responsible for his or her share of assessments imposed by the Association. This personal obligation or delinquent assessments shall not pass to the Owner's successor; PROVIDED, HOWEVER, the obligation to pay the same shall be in continuing lien on the Parcel, excepting for the provisions of Paragraph 2.L. below, relating to deed of trust beneficiaries and to realty mortgagees.

F. The Association shall, on an annual basis, make a determination of the estimated costs of the repair and maintenance of the roadways and any other designated common areas as shown on the Record of Survey or otherwise so designated, including any reserves necessary for future capital expenditures and maintenance. Assessments shall be charged to each Owner on a uniform flat fee basis per Parcel owned. The assessments may be collected on a monthly, quarterly, or annual basis, or any combination of same as determined by the Association. The Association shall prepare an annual budget and also an annual accounting of monies received and disbursed.

G. Each Owner shall be responsible to pay the regular assessment which will be assessed as of the date of recordation of the deed or purchase contract wherein the Owner acquired legal beneficial or equitable title to the Parcel. The Parcel Owner acquiring his or her interest from Declarant during the calendar year shall be obligated for a pro rata portion thereof. The Declarant shall not be responsible for comparable assessments on each Parcel owned by it. However, Declarant will be responsible for providing labor, material and/or monies in sufficient amounts, not to exceed the amount of the normal Parcel assessment for each Parcel owned by it, if necessary in Declarant's opinion, to properly fulfill the Association's maintenance responsibilities until the Transition Date or earlier, at Declarant's option. Regular assessments shall be set by the Association on an annual calendar year basis. The initial regular assessment for all Parcels, shall be \$154.00 per Parcel, per year. Any division of an original Parcel shall be considered a separate Parcel subject to a separate assessment and entitled to a separate vote in the Association (as set forth in Paragraph 2.J.) If an original Parcel is divided in accordance with this Declaration, then each newly created Parcel shall be assessed the full current amount assessed all other Parcels in the Project at the time of the division and will become subject to all the terms and conditions stated in this Declaration. The Association shall fix the amount of the regular assessment at least thirty (30) days prior to the end of the calendar year. Written notice of the assessment shall be sent to every Owner. The payment due date shall be established by the Association.

**H.** In addition to the regular assessment as set forth above, the Association may set special assessments if the Association determines that such is necessary to meet the primary purposes of the Association. Special assessments shall be established by two-thirds (2/3) of the number of votes cast by members constituting a twenty-five percent (25%) quorum of the votes entitled to be cast. Any special assessments shall be allocated and charged on the same basis per Parcel as regular assessments.

**I.** All sums assessed by the Association chargeable to a Parcel, but unpaid, shall constitute a lien on such Parcel prior to all other liens excepting only ad valorem liens in favor of a governmental assessing unit or special assessment district. The Association lien may be foreclosed by the Association in a like manner as a foreclosure of a real property Deed of Trust or realty mortgage. The Association shall have the power to bid on the mortgage. The Association shall have the power to bid on the delinquent Parcel at a foreclosure sale, and acquire, hold, lease, encumber and convey the same. A suit to recover a money judgment for unpaid assessments and charges shall be maintainable by the Association without foreclosing or waiving the lien securing the same.

**J.** The total number of votes in the Association shall be on the basis of four (4) votes per original Owner per Parcel. The Declarant shall have nine (9) votes for each such Parcel it owns. At any time that a Parcel not owned by Declarant is legally further divided in accordance with this Declaration, the four (4) votes originally available to the original Parcel shall be reallocated as follows: (1) if the original Parcel has been divided into two (2) Parcels, each Parcel shall be allocated two (2) votes, unless one of the resultant Parcels is at least 30 acres in area in which event the larger Parcel shall be allocated three (3) votes and the smaller Parcel shall be allocated one (1) vote; (2) if the original Parcel has been divided into three (3) Parcels, the largest Parcel shall be allocated two (2) votes and the remaining Parcels shall be allocated one (1) vote each; and (3) if the original Parcel has been divided into four (4) Parcels (10 acre minimum size each), each Parcel shall be allocated one (1) vote. The total number of Parcels and therefore the total number of votes may also be increased from time to time by the division of Parcels (as described above) or the annexation of Additional Property, pursuant to Paragraph 3 of this Declaration, as evidenced by a Declaration of Annexation, incorporating this Declaration, executed and recorded by Declarant or its designee. Unless otherwise specifically provided herein, all Association matters shall be determined by a 2/3 majority vote (i.e., a 2/3 majority of the number of votes cast so long as the 10% quorum requirement is met). If more than one party is the Owner of a Parcel, there must be unanimous agreement among those who own an interest, otherwise the vote(s) attributable to that Parcel shall not be counted.

**K.** Subject to Paragraph 6, herein, the members of the Association shall elect the board of the directors who shall have the power to adopt Bylaws and to appoint officers, as well as promulgate reasonable rules and regulations relating to the matters within its purpose. Unless otherwise stated herein, the directors shall conduct the affairs and exercise the powers of the Association.

L. Where the holder of a Bona Fide First Deed of Trust, including Declarant, obtains title to the Parcel as a result of a trustee's sale, or deed in lieu of foreclosure, of said Bona Fide First Deed of Trust, such acquirer of title, its successors and assigns, shall not be liable for the share of the expenses of the assessments by the Association chargeable to such Parcel which became due prior to the acquisition of title to such Parcel by such acquirer. Such acquirer shall be responsible, as any Owner, for assessments charged subsequent to the acquisition.

M. In the event the Association determines that any Parcel Owner has not complied with the provisions of this Declaration, then the Association may, at its option, give written notice to the Owner of the conditions complained of. The Owner shall correct same or, if not readily correctable within fifteen (15) days after notice from the Association, the Owner shall submit corrective plans proposing its remedy to the condition complained of with fifteen (15) days after notice from the Association. The Association shall approve or disapprove any plans submitted by the Owner and set forth a reasonable time for correction of the condition complained of. In the event such condition is not corrected according to the approved plans, within the allotted time, the Association shall have the right to undertake to remedy such condition or violation complained of. The cost thereof shall be deemed to be an assessment to such Owner and enforceable by the Association as if any other unpaid assessment. The Association is hereby granted the right of entry on the affected Parcel to so correct the condition or violation complained of.

### 3. ANNEXATION OF ADDITIONAL PROPERTY.

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A. Declarant, its successors and designees reserve all present and future rights to utilize all private roads and easements within the Project to comparably develop lands within or adjacent to the Project and to grant the use to said roads and easements to additional entities at its' sole discretion. Any such expansion to be included within this Declaration shall be subject to the terms and conditions of this Declaration, but may include reasonable variances.

B. At any time the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Additional Property without the consent of any other Owner or person. The annexation of all or any portion of the Additional Property shall be effected by the Property being annexed, stating that such portion of the Additional Property is annexed and which will be common area or any other area which will be maintained, repaired and replaced by the Association. Unless a later effective date is set forth in the Declaration of Annexation annexing Additional Property, the annexation shall become effective upon the recording of the Declaration of Annexation. A Declaration of Annexation including Additional Property being annexed into separate phases shall provide for a separate effective date with respect to each phase. The voting rights of the Owners of Parcels annexed pursuant to this section shall be effective as of the date the Declaration of Annexation annexing such Property is recorded. The Parcel Owner's

obligation to pay assessments shall commence as provided in Paragraph 2 of this Declaration. If an Amendment annexing a portion of the Additional Property divides the annexed portion of the Additional Property into phases or units, the Declarant shall have the right to amend any such Declaration of Annexation to change the description of the phases or units within the annexed Project, except that the Declarant may not change any unit in which a Parcel has been conveyed to an Owner.

C. Declarant makes no assurances as to the exact number of Parcels which will be added to the Project by annexation or if all or any portion of the Additional Property will be annexed.

D. The Additional Property may be annexed as a whole, at one time or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. The Property annexed by the Declarant pursuant to this Paragraph 3 need not be contiguous with other Property in the Project, and the exercise of the right of annexation as to any portion of the Additional Property shall not bar the further exercise of the right of annexation as to any other portion of the Additional Property.

**E. DECLARANT MAKES NO REPRESENTATIONS OR WARRANTIES**

**WHATSOEVER THAT:** (1) The Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is recorded; (2) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (3) the use of any Property subject to this Declaration will not be changed in the future.

**4. DE-ANNEXATION.**

Notwithstanding any other provision of this Declaration, Declarant shall have the right from time to time, at its sole option and without the consent of any Owner or any other person, to delete from the Property and remove from the effect of this Declaration one or more portions of the Property, so long as (a) the portion of the Property to be removed and deleted is owned by Declarant or the Owner of such portion of the Property executes and records an instrument approving such deletion and removal; and (b) such deletion and removal would not deprive Owners of other parts of the Property of easements or rights-of-way necessary to the continued use of their respective parts of the Property (unless Declarant at the same time provides for reasonably adequate replacement easements or rights-of-way). Declarant may exercise its rights of de-annexation in each case by executing and causing to be recorded an instrument which identifies the portion of the Property to be so deleted and removed and the deletion and removal of such portion of the Property shall be effective upon the date such instrument is recorded; whereupon, the portion of the Property so deleted and removed shall thereafter for all purposes be deemed not a part of the Property. No such deletion and removal of a portion of the Property shall act to release such portion from the lien for assessments or other charges hereunder which have accrued prior to the effective date of such deletion and removal, but all such assessments or

other charges shall be appropriately prorated to the effective date of such deletion and removal. Each portion of the Property deleted and removed pursuant hereto shall thereafter be deemed to be a part of the Additional Property unless otherwise expressly provided to the contrary in the instrument recorded to effect such deletion and removal

## 5. GENERAL RESTRICTIONS APPLICABLE TO ALL PARCELS

**A. Single Family Residential and Recreational Use Only:** All Parcels shall be used for residential and recreational purposes only. Livestock may be kept pursuant to paragraph 5.K. Notwithstanding anything contained in this paragraph this restriction shall not prohibit home offices in a residential property where business is conducted through telephone, computer, or other electronic means and where the business is not apparent from the exterior of the residence; does not create noise or congestion from traffic or parking; and preserves the residential nature of the Property. All uses shall be in compliance with Apache County zoning regulations and permitted uses.

**B. Dwelling Type:** A site built structure can be no more than two stories'. The finished exterior shall be in harmony with it's natural surroundings. No mobile or manufactured homes older than 10 years from the date of manufacture to the date of installation are allowed. All mobile or manufactured homes must be skirted with wheels removed so frame is not exposed. Building and mobile home permits may be required by Apache County. The ground around the mobile or manufactured home shall be graded to allow water to flow away from the home.

**C. Travel Trailers, RVs':** No travel trailer or recreational vehicle may be used as a permanent residence. One (1) travel trailer or recreational vehicle may be used for temporary residential use only if the use extends for not more than three (3) consecutive months or no more than a total of six (6) months in any calendar year, with the exception that occupant has been issued a building permit by Apache County and is diligently proceeding to construct a permanent residence upon the Parcel. Except where the Apache County laws are more stringent.

**D. Sanitary Facilities:** All dwelling's and/or living quarters shall be self-contained, connected to a septic system, waterless toilet, or other alternative system and shall be approved by the appropriate governmental agency

**E. Additional Subdivisions and Re-sale of Parcels:** 1) After the initial conveyance of a Parcel, but no sooner than December 31, 2003, it may be further subdivided three times, creating a maximum of four (4) Parcels provided each Parcel contains no less than 10 acres each. 2) Any split of the original Parcel shall be in strict accordance with all applicable laws including required approvals by Apache County and the State of Arizona. Conformance to all applicable laws and regulations shall be the sole responsibility of the Parcel Owner. 3) No original Record of Survey Parcel(s) may be resold by the Owner for a period of 36 months from the date of initial



conveyance or until after December 31, 2003, which ever is sooner UNLESS a permanent dwelling has been constructed on the Parcel offered for sale. 4) The Association may grant a written variance to the December 31, 2003 date for subdividing under the following circumstances: a) for the sole purpose of constructing permanent dwelling(s) on the Parcel and/or newly created Parcels b) the original Parcel and any newly created Parcels shall be continue to be subject to the conditions set forth in this paragraph.

**F. No Medical Facilities:** Hospitals, clinics, and other facilities for the treatment or care of the physically or mentally ill or disabled are prohibited. Facilities for the treatment or care of animals are also prohibited.

**G. Churches or Clubs;** or other institutions organized for religious worship or discussion are prohibited as are buildings used primarily as clubhouses or meeting facilities.

**H. Vehicles:** Any motor vehicle under repair or inoperable may not be parked on any roadway, driveway, or other easement. When said vehicles are parked on a Parcel, such motor vehicles must be hidden by walls, fences, screens, or foliage, so as the vehicle is not to be visible from roadways or other Parcels. All vehicles, engines, or motors must be operated with a muffler and/or spark arrestor.

**I. Trash:** No Parcel may be used for temporary or permanent storage of rubbish or trash (collectively, garbage). No garbage may be kept on any Parcel except in covered containers and screened from view from adjacent Parcels.

**J. Junkyards, Auto Repair, Second-Hand Business, Material Storage:** No junkyards, auto repair, second-hand businesses or other commercial uses that create a negative visual impact, excessive noise or congestion from traffic or parking shall be conducted on any Parcel. No storage of trucks, cars, buses, machinery, equipment or building materials shall be stored on any Parcel unless enclosed in a proper structure to not be visible from an adjoining Parcel or passing on the roadway.

**K. Livestock:** No swine shall be raised, bred, or kept on any parcel. A Parcel may be used for ranching, including the use of keeping of a reasonable number of horses and cattle, provided the Parcel has been fenced in accordance with the fencing guidelines and set backs set forth in paragraphs 5.N and 5.S. Under no circumstances shall a stockyard, dairy, riding stable, kennel, poultry farm or any other commercial activity involving animals be permitted.

**L. Nuisance Activities:** The unnecessary, prolonged, or indiscriminate creation of noise, dust, fumes, odors or any other offense activity is prohibited, including but not limited to gunfire, road racing and loud music.

**M. Signs:** Signs (including but not limited to For Sale or For Rent signs) are not permitted on Parcels, except for address signs which identify the address and/or the Owner of the Parcel, which signs shall not exceed 4 sq. ft. When a Parcel is eligible for sale under the provisions set forth in Paragraph 5.E of this declaration, For Sale or For Rent signs will be permitted so long as they are neatly painted and maintained and do not exceed 6 sq. ft. None of the sign restrictions in this Declaration apply to the Developer or his assigns or successors, for the purpose of selling Parcels, location, directional or street signs.

**N. Structure Setbacks:** All structures shall be built at least fifty feet (50) from the front, rear and side Parcel boundary lines. If local governmental regulations provide for more restrictive setbacks, those regulations shall govern. In any event, any construction on a Parcel shall comply with all applicable Apache County building regulations. Any fence constructed on a Parcel shall not be closer than thirty (30) feet to any Parcel line for the purpose of grazing animals and/or utility easements.

**O. Easements:** No structure including fencing shall be constructed on the recorded easements as they are shown on the Record of Survey, however cattle guards may be used. Parcel Owners will provide access to the subject easement whenever requested by utility companies.

**P. Declarant's Exemption:** Nothing herein shall be construed as prohibiting Declarant from maintaining a sales or development office on any Parcel or engaging in activities which Declarant deems appropriate to its development or sales program or ranching activities.

**Q. Mineral Rights:** In no event shall any Owner or lessee use or cause to be used any portion of the Property, including his or her own Parcel, for the purposes of drilling, exploring, mining, or otherwise developing any deposits of oil, minerals, or other natural resources lying above, on, or under said Property, with the exception of such drilling and exploration by the Declarant or the Owner as may be necessary to produce an adequate water supply for the development of the Parcel involved.

**R. Grazing Rights:** The grazing rights to the said Property have been retained by Arizona Land & Ranches, Inc., an Arizona corporation ("Developer") and/or assignees ("Lessee") and any transferees or assignees therefrom and are reserved from all Parcels for the exclusive use thereof, until such time as Owner fences out and excludes livestock from grazing on Owner's Parcel, pursuant to paragraph 5.S., at which time such reserved grazing rights as to that Owner's Parcel shall be deemed terminated.

**S. Fencing Setbacks:** Any Owner may fence off all or any part of Owner's Parcel in order to restrict horses and other livestock from crossing or grazing on Owners Parcel. Construction of said fence must be adequate to help keep off livestock and fence shall be maintained by Parcel Owner. All fencing must be set back 30' from Parcel lines and may not encroach upon any easement referred to on the Record of Survey and/or this Declaration. Any fence constructed

inside of the thirty foot (30') easement will be required to be moved at the Parcel Owner's expense within thirty (30) days of notification by Developer or Lessee. In the event Parcel Owner does not relocate fence within the thirty day period, Developer or Lessee may either choose to relocate the fence and charge the Parcel Owner for costs of labor and materials required for the fence relocation, or cause a lawsuit to be commenced and maintained to enforce such provision of this Declaration. Owner, at his/her expense shall have the right to move any existing fence which goes through Owner's Parcel, provided said fence is moved in accordance with this paragraph and is reconnected and maintained so that there is no gap in the overall fencing. Any fences moved and/or installed by Owner, shall be at Owner's sole expense. At a minimum all fencing to be constructed as follows: 1) with posts not more than 15' apart, 2) not less than three stays between posts, 3) with four continuous strands of barbed wire; and 4) such fence is adequate, in accordance with normal ranch standards, to contain horses and other livestock.

**T. Environmental Protection:** The beauty of the Property is in the mixture of trees and open space. Trees are defined as having a minimum trunk diameter of six inches and measuring two feet above ground level and may only be cut if the following conditions are met: 1) are dead or dying, 2) removal is required to clear for building sites, access roads, enable installation of utilities, view corridors, or recreational open space, 3) purposes of fire safety. In any event not more than twenty percent (20%) of any one Parcel may be cut or cleared.

**U. Waiver:** The Declarant and its' successor shall have the right to allow variances where strict enforcement of these restrictions would cause undue hardship.

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## 6. DECLARANT'S CONTROL OF THE ASSOCIATION AND MAINTENANCE OF THE COMMON PROPERTY.

**A.** The Declarant will maintain control of the Association and may act as it's board of directors until it's Transition Date. The Transition Date to be at such time as 100% of the Parcels have been sold or earlier, at Declarant's option.

**B.** The Declarant shall notify the Association members in writing of the Transition Date on or about thirty (30) days prior to said Transition Date. The Declarant, as the Association's initial board of directors shall call a meeting of Owners (aka; members of the Association) for the purpose of taking over the operation of the Association. At said meeting, the Association members shall elect, by a majority of the votes cast by the applicable Owners, a minimum of three (3) and a maximum of five (5) persons to the board of directors. So long as Declarant owns any Parcels at the time of the transition, it may exercise it's voting rights by casting the number of votes it still retains at the time. The transition meeting shall also constitute an annual meeting as defined in the Bylaws. The newly elected directors may hold their first directors' meeting immediately following the annual meeting for the purposes of electing officers and conducting

any other business of the directors. Thereafter, all affairs of the Association shall be conducted by the board of directors and such officers that the board may elect or appoint in accordance with Articles and Bylaws, as they may be amended from time to time, unless otherwise stated in this Declaration.

C. The Association may employ or contract for maintenance of roadways and assess members for the cost thereof.

## 7. GENERAL PROVISIONS

A. **Enforcement:** The covenants, conditions, and restrictions contained in this Declaration shall run with the land and shall be binding upon all persons owning, leasing, subleasing or occupying any Parcel after the date on which this instrument shall have been recorded in the office of the Recorder of Apache County, Arizona. This Declaration may be enforced by the Declarant, Lessee, any Owner or lessee of any Parcel, by the holder of a Bona Fide First Deed of Trust on any Parcel, by the Association, or by any one or more of said persons acting jointly; PROVIDED, HOWEVER, that any breach by reason thereof shall not defeat or adversely affect the lien of a Bona Fide First Deed of Trust upon any Parcel, but each and all said covenants, conditions, and restrictions shall be binding upon and effective against any Owner, Lessee or occupant of said Parcel whose title thereto is acquired by foreclosure, or otherwise, and FURTHER PROVIDED also that the breach of any said covenants, conditions, and restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such Bona Fide First Deed of Trust. All instruments of conveyance or assignment of any interest in all or any party of the Property may refer to this Declaration and shall be subject thereto as fully as though this Declaration were therein set forth in full.

B. **Invalidity:** Invalidation of any of the covenants, conditions, and restrictions, contained herein by a Court of competent jurisdiction, shall in no way affect the validity of any other provision of this Declaration, all of which shall remain in full force and effect.

C. **Legal Fees and Costs:** The Declarant or the Board of Directors of the Association may cause a lawsuit to be commenced and maintained in the name of the Association against an Owner to enforce the payment of any delinquent assessment. The Declarant or the Board of Directors of the Association, or the Developer or the Lessee (as their interests may appear) may cause a lawsuit to be commenced and maintained to enforce any other pertinent provision of this Declaration. Any judgment rendered in any such action shall include the amount of the delinquency, interest at the rate of twelve percent (12%) per annum from the date of delinquency, the amount of damages proven, any appropriate order or mandate of the court, court fees, and reasonable attorney's fees which are incurred by the prevailing party as fixed by the court.

**D. Amendments:** This Declaration may be amended by instrument which has been approved by two-thirds (2/3) of the votes cast with a quorum of twenty-five percent (25%) of the members entitled to vote. Such amendment shall be recorded in the Office of the Apache County Recorder and become effective immediately thereafter. So long as it owns any Parcel, Declarant may amend this Declaration without approval of the Owners, to correct any inconsistencies or to make non-substantive revisions or to comply with any law or regulation. Paragraphs 5.R and 5.S may not be amended by the Association after the Transition Date in such a way as to change or negate the rights provided to the Lessee in this Declaration or on the Record of Survey.

**E. Term:** This Declaration may hereafter be amended in accordance with the terms hereof, and shall remain in full force and effect for a term of twenty (20) years from and after the date of recording of this Declaration. This Declaration shall be automatically renewed and extended for successive periods of ten (10) years each, unless terminated by three-quarters (3/4) of the votes cast by all members entitled to vote or amended in accordance with the provisions set forth in the Bylaws and in this Declaration. Such termination or amendment shall be recorded in the Office of the Apache County Recorder.

EXECUTED this 1<sup>ST</sup> day of June, 2001

DECLARANT:

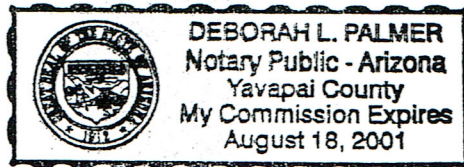
ARIZONA LAND & RANCHES INC.,  
an Arizona corporation

By: Gary P. Sumner  
GARY P. SUMNER, President

This instrument was acknowledged before me this 1<sup>st</sup> day of June, 2001 by Gary P. Sumner as president of Arizona Land & Ranches, Inc.

Notary Deborah L. Palmer

My Commission expires:



**EXHIBIT "A"**  
**Legal Description for Red Sky Ranch**

**RED SKY RANCH, PHASE I, PARCELS 1 - 64 INCLUSIVE AND PARCELS 97 - 112 INCLUSIVE, ALL LYING WESTERLY OF STATE HIGHWAY 61 IN SECTIONS 1, 3, 5, 7, & 13 IN TOWNSHIP 17 NORTH, RANGE 28 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA AS RECORDED IN THE OFFICE OF THE APACHE COUNTY RECORDER. IN APACHE COUNTY, ARIZONA.**

When Recorded Return To:  
Arizona Land & Ranches, Inc.  
1020 Sandretto Dr., Suite B  
Prescott, AZ 86301



2001-09446  
Page 1 of 1  
OFFICIAL RECORDS OF APACHE COUNTY  
JEANNE UDALL, RECORDER  
11/29/2001 03:31 PM Recording Fee \$10.00

FIRST AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
RED SKY RANCH  
Apache County, Arizona

Pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Red Sky Ranch as recorded at fee number 2001-04517 of the Official Records of Apache County, Arizona, the undersigned hereby amends the Declaration as follows:

- I. Page 14, **EXHIBIT "A", Legal Description for Red Sky Ranch**, the following shall be added to the existing legal description:

**RED SKY RANCH, PHASE 2, LOTS 65 – 96 INCLUSIVE, AND LOTS 113 – 147 INCLUSIVE, ALL LYING WESTERLY OF STATE HIGHWAY 61 IN SECTIONS 9, 11, 15, 17, 19, AND 21, TOWNSHIP 17 NORTH, RANGE 28 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA AS RECORDED IN THE OFFICE OF THE APACHE COUNTY RECORDER.**

All other terms and conditions to remain the same.

EXECUTED this 28<sup>th</sup> day of November, 2001

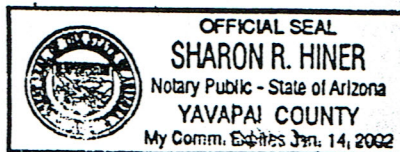
DECLARANT:  
ARIZONA LAND & RANCHES, INC.  
an Arizona corporation

By Deborah L. Palmer  
DEBORAH L. PALMER, as Vice President

This instrument was acknowledged before me this 28<sup>th</sup> day of Nov., 2001  
by DEBORAH L. PALMER, as Vice President of Arizona Land & Ranches, Inc.

Notary Sharon R. Hiner

My Commission Expires:



When Recorded Return To:  
Arizona Land & Ranches, Inc.  
1020 Sandretto Dr., Suite B  
Prescott, AZ 86301



2002-02865  
Page 1 of 1  
OFFICIAL RECORDS OF APACHE COUNTY  
JEANNE UDALL, RECORDER  
03/26/2002 04:17 PM Recording Fee \$13.00

Apache Title & Trust

SECOND AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
RED SKY RANCH  
Apache County, Arizona

Pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Red Sky Ranch as recorded at fee number 2001-04517 of the Official Records of Apache County, Arizona, the undersigned hereby amends the Declaration as follows:

I. Page 14, EXHIBIT "A", Legal Description for Red Sky Ranch, the following shall be added to the existing legal description:

**RED SKY RANCH, PHASE 3, LOTS 148 - 215 INCLUSIVE ALL LYING WESTERLY OF STATE HIGHWAY 61 IN SECTIONS 23, 27, 29, 31, 33 & 35, TOWNSHIP 17 NORTH, RANGE 28 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA AS RECORDED IN THE OFFICE OF THE APACHE COUNTY RECORDER IN BOOK 10 OF LAND SURVEYS, PAGE 13.**

All other terms and conditions to remain the same.

EXECUTED this 20<sup>th</sup> day of March, 2002

DECLARANT:

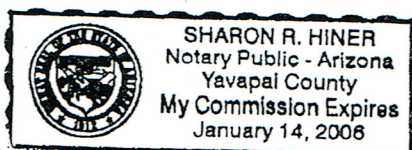
ARIZONA LAND & RANCHES, INC.  
an Arizona corporation

By Deborah L. Palmer  
DEBORAH L. PALMER, as Vice President

This instrument was acknowledged before me this 20<sup>th</sup> day of March, 2002  
by DEBORAH L. PALMER, as Vice President of Arizona Land & Ranches, Inc.

Notary Sharon Hiner

My Commission Expires:





When Recorded Return To:  
Arizona Land & Ranches, Inc.  
1020 Sandretto Dr., Suite B  
Prescott, AZ 86301



2002-04936  
Page 1 of 1  
OFFICIAL RECORDS OF APACHE COUNTY  
JEANNE UDALL, RECORDER  
06/10/2002 09:32 AM Recording Fee \$14.00

THIRD AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
RED SKY RANCH  
Apache County, Arizona

Pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Red Sky Ranch as recorded at fee number 2001-04517 of the Official Records of Apache County, Arizona, the undersigned hereby amends the Declaration as follows:

I. Page 9, Paragraph L. "Nuisance Activities" shall be amended to read as follows:

"The unnecessary, prolonged or indiscriminate creation of noise, dust, fumes, odors or any other offensive activity is prohibited, including but not limited to excessive gunfire, road racing and loud music."

All other terms and conditions to remain the same.

EXECUTED this 1<sup>ST</sup> day of May, 2002

DECLARANT:

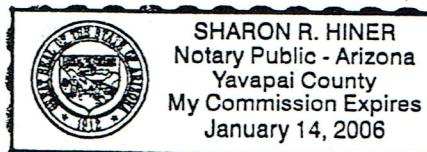
ARIZONA LAND & RANCHES, INC.  
an Arizona corporation

By Deborah L. Palmer  
DEBORAH L. PALMER, as Vice President

This instrument was acknowledged before me this 1<sup>st</sup> day of May, 2002  
by DEBORAH L. PALMER, as Vice President of Arizona Land & Ranches, Inc.

Notary Sharon Hiner

My Commission Expires:



When Recorded Return To:  
Arizona Land & Ranches, Inc.  
1020 Sandretto Dr., Suite B  
Prescott, AZ 86301



2002-07940  
Page 1 of 1  
OFFICIAL RECORDS OF APACHE COUNTY  
JEANNE UDALL, RECORDER  
10/16/2002 04:36 PM Recording Fee \$13.00

Apache Title & Trust

FOURTH AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
RED SKY RANCH  
Apache County, Arizona

Pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Red Sky Ranch as recorded at fee number 2001-04517 of the Official Records of Apache County, Arizona, the undersigned hereby amends the Declaration as follows:

- I. Page 14, **EXHIBIT "A", Legal Description for Red Sky Ranch**, the following shall be added to the existing legal description:

"The North half of Section 7, and the North half of Section 9,  
TOWNSHIP 15 NORTH, RANGE 28 EAST, of the Gila and Salt River  
Base and Meridian, Apache County, Arizona."

All other terms and conditions to remain the same.

EXECUTED this 16<sup>th</sup> day of July, 2002

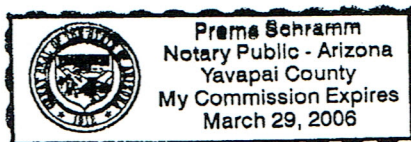
DECLARANT:  
ARIZONA LAND & RANCHES, INC.  
an Arizona corporation

By Deborah L. Palmer  
DEBORAH L. PALMER, as Vice President

This instrument was acknowledged before me this 16<sup>th</sup> day of July, 2001  
by DEBORAH L. PALMER, as Vice President of Arizona Land & Ranches, Inc.

Notary Prema Schramm

My Commission Expires:



When Recorded Return To:  
Arizona Land & Ranches, Inc.  
1020 Sandretto Dr., Suite B  
Prescott, AZ 86301



2002-07842  
Page 1 of 1  
OFFICIAL RECORDS OF APACHE COUNTY  
JEANNE UDALL, RECORDER  
10/11/2002 03:20 PM Recording Fee \$14.00

FIFTH AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
RED SKY RANCH  
Apache County, Arizona

Pursuant to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Red Sky Ranch as recorded at fee number 2001-04517 dated June 12, 2001 of the Official Records of Apache County, Arizona, the undersigned Declarant hereby amends the Declaration as follows:

- L.** Page 14, **EXHIBIT "A", Legal Description for Red Sky Ranch**, the following shall be added to the existing legal description:

SECTIONS 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, AND THE SW1/4, NE1/4 SECTION 32 IN TOWNSHIP 16 NORTH, RANGE 28 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA.

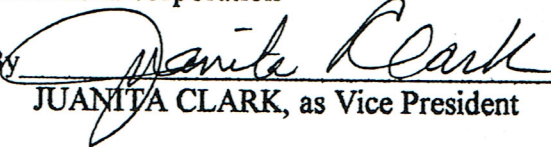
TOGETHER WITH:

SECTIONS 1, 3, 5 AND N1/2 SECTION 11 IN TOWNSHIP 15 NORTH, RANGE 28 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, APACHE COUNTY, ARIZONA


All other terms and conditions to remain the same.

EXECUTED this 11 day of October, 2002

DECLARANT:  
ARIZONA LAND & RANCHES, INC.  
an Arizona corporation

By   
JUANITA CLARK, as Vice President

This instrument was acknowledged before me this 11th day of October, 2001  
by JUANITA CLARK as Vice President of Arizona Land & Ranches, Inc.

Notary 

My Commission Expires: 07/01/05

