

**RECORDING REQUESTED BY:
WHEN RECORDED MAIL TO:**

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**GATE RELOCATION, LEASE,
AND RECIPROCAL EASEMENT AGREEMENT**

THIS GATE RELOCATION, LEASE, AND RECIPROCAL EASEMENT AGREEMENT ("Agreement") is entered into on this ____ day of _____, 2008, by and between CASTLE & COOKE ARIZONA, INC., an Arizona corporation ("Castle & Cooke") and the 3 CANYONS RANCH MASTER HOMEOWNERS' ASSOCIATION, an Arizona non-profit corporation (the "3 Canyons HOA").

RECITALS

WHEREAS, Castle & Cooke and the 3 Canyons HOA entered into that certain *Agreement for Installation, Use and Maintenance of Gate* dated July 5, 2000, recorded August 23, 2000 as Document No. 000823486 in the Official Records of Cochise County, Arizona, (the "Gate Agreement") concerning the installation, use and maintenance of an entrance gate on Three Canyons Road at Highway 92;

WHEREAS, Castle & Cooke and the 3 Canyons HOA mutually desire to cause the replacement and relocation of the gate originally constructed pursuant to the Gate Agreement; and,

WHEREAS, Castle & Cooke and the 3 Canyons HOA desire to terminate the Gate Agreement and to replace the same with this Agreement on the terms and conditions herein contained.

AGREEMENT

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt, adequacy and sufficiency of which are hereby acknowledged, and in exchange of the mutual covenants herein contained, Castle & Cooke and the 3 Canyons HOA hereby agree as follows:

1. Termination of Gate Agreement. The Gate Agreement is hereby terminated in its entirety, shall have no further force or effect, and all obligations contained therein are hereby released and extinguished, including any and all maintenance and/or monetary obligations.
2. Removal of Existing Gate and Monument. Castle & Cooke shall, at its sole expense, and with the permission of the 3 Canyons HOA evidenced by the 3 Canyons HOA's signature on this Agreement, remove the existing gate and any monument features associated

therewith which were the subject of the Gate Agreement (the “Existing Gate”) located on East Three Canyons Road at the intersection of Highway 92.

3. Construction of New Monument. Castle & Cooke shall, at its sole cost and expense, design, engineer, and construct a new monument feature (the “New Monument”) at the location of the New Gate described in Section 4 below on East Three Canyons Road at approximately the location shown on Exhibit A and Exhibit B attached hereto, which shall be substantially in the design shown on the red-lined plan “The Oaks Entry Monument” dated June 22, 2006 prepared by NUVIS and modified by Castle & Cooke, which plan the 3 Canyons HOA acknowledges having seen, reviewed and approved. The New Monument shall be located on Castle & Cooke-owned land and shall be the property of and owned by Castle & Cooke, but shall be leased to the 3 Canyons HOA pursuant to Section 5 below. Castle & Cooke shall cooperate in coordinating the construction of the New Monument with the 3 Canyons HOA’s construction of the New Gate. Castle & Cooke shall complete construction of the New Monument within 18 months after the full execution of this Agreement.

4. Construction of New Gate. The 3 Canyons HOA shall, at its sole cost and expense, design, engineer and construct a new gate (the “New Gate”) across East Three Canyons Road at approximately the location shown on Exhibit A and Exhibit B attached hereto. The New Gate shall be compatible with the design of the existing gate monuments in The Oaks, Phase 1 subdivision. The New Gate shall be the property of and owned by the 3 Canyons HOA. The 3 Canyons HOA shall cooperate in coordinating the construction of the New Gate with Castle & Cooke’s construction of the New Monument.

5. Gate Area and Oaks Roadway Lease. In exchange for the performance by the 3 Canyons HOA of all obligations of the 3 Canyons HOA described herein and the easement granted herein, Castle & Cooke hereby leases to the 3 Canyons HOA, on a non-exclusive basis (the “Gate Area and Oaks Roadway Lease”), (a) those certain lands owned by Castle & Cooke which are depicted on Exhibit B attached hereto (the “Gate Area”) and all improvements located thereupon, for the purpose of the construction, use and maintenance of the New Gate and for maintenance of the New Monument and (b) that portion of East Three Canyons Road located within The Oaks development between Highway 92 and the Gate Area (the “Oaks Roadway”). Notwithstanding anything to the contrary stated herein, Castle & Cooke reserves to itself, as owner and lessor of the Gate Area, the right to enter upon the Gate Area in order to inspect and perform any maintenance activities that may be required in accordance with Section 7 herein. The 3 Canyons HOA shall have the right to use the New Gate and the Oaks Roadway for access to and from the lands commonly known as “3 Canyons Ranch,” as described in Document No. 951024838 recorded in the official records of Cochise County, Arizona, as amended from time to time, and shall have the right to permit its members and their invitees to do so. Notwithstanding anything to the contrary contained in this Agreement, the 3 Canyons HOA’ tenancy of the Gate Area and the Oaks Roadway is and shall be non-exclusive in nature, and Castle & Cooke, as owner and lessor of the Gate Area, shall have the right to use the New Gate and the Gate Area for any purposes whatsoever, so long as such use does not impede the 3 Canyons HOA’ use thereof for the purposes herein stated. Castle & Cooke retains the unrestricted right to use, and to permit third parties to use, the Oaks Roadway for any purposes whatsoever, so long as such use does not impede the use thereof by the 3 Canyons HOA for the purposes herein stated. The 3 Canyons HOA shall provide Castle & Cooke with all keys, key codes, combinations and other devices and/or information necessary to permit Castle & Cooke and its agents to at all times fully and conveniently use and access the New Gate and Gate Area in order to inspect and perform any maintenance activities that may be required in accordance with Section 7 herein. Castle & Cooke shall not authorize persons to use the New Gate for purposes other than those described in this Section 5 without the 3 Canyons HOA’ prior approval.

6. 3 Canyons Roadway Easement. In exchange for the performance by Castle & Cooke of all obligations of Castle & Cooke described herein, the 3 Canyons HOA hereby grants to Castle & Cooke a non-exclusive easement in, on, over and across the roadway depicted on Exhibit C attached hereto and which is located on certain lands owned by the 3 Canyons HOA, described on Exhibit D attached hereto (the “3 Canyons Roadway Easement”) for the use of the existing roadway on said lands, commonly known as “East Three Canyons Road,” to the east of the Gate Area and any roadway improvements hereafter constructed thereon, as the same may be relocated from time to time by the 3 Canyons HOA. The 3 Canyons Roadway Easement is to be used for the construction, use and maintenance of water, sewer, gas, telephone, cable and other utility lines therein and thereunder. Castle & Cooke, its employees and agents shall have the right to use the 3 Canyons Roadway Easement for access to and from the lands described on Exhibit E attached hereto (“The Oaks development”) and the right to construct, use and maintain utility lines therein and thereunder for the benefit of The Oaks development. Notwithstanding anything to the contrary contained in this Agreement, the 3 Canyons Roadway Easement is and shall be non-exclusive in nature, and the 3 Canyons HOA shall have the unrestricted right to use, and to permit third parties to use, the 3 Canyons Roadway Easement for any purposes whatsoever, so long as such use does not impede the use thereof by Castle & Cooke for the purposes herein stated. The 3 Canyons Roadway Easement is and shall be considered an easement appurtenant to land upon which the Gate Area is located.

7. Maintenance of New Gate, Gate Area and the Oaks Roadway. The 3 Canyons HOA shall keep and maintain the New Gate in good working order, and shall keep and maintain the New Gate, the New Monument, the Gate Area and all landscaping, irrigation, improvements, lighting fixtures and signage thereon and the Oaks Roadway in good, working and aesthetically appealing, first class condition. Castle & Cooke shall have no obligation to share in the costs associated with the maintenance or repair of the New Gate, the New Monument, the Gate Area or any improvements thereto or thereon or the Oaks Roadway, except that Castle & Cooke or its designee shall be responsible for repairing and top coating the Oaks Roadway within six months after the completion of all site and street improvements for construction of Phase 1 of The Oaks development. The 3 Canyons HOA will assume maintenance responsibility after Castle & Cooke has completed the repairing and top coating described above. In the event the 3 Canyons HOA fails for any reason to maintain the New Gate, the New Monument, Gate Area or the Oaks Roadway in compliance with the provisions of this Section 7, then Castle & Cooke shall have the right, but not the obligation, to perform such maintenance, following the giving of 30 days prior written notice to the 3 Canyons HOA, and in such event the 3 Canyons HOA shall reimburse Castle & Cooke for all actual costs associated with such maintenance within 30 days after receiving a written demand from Castle & Cooke for such costs expended.

8. Maintenance of 3 Canyons Roadway Easement. The 3 Canyons HOA, as the owner of the 3 Canyons Roadway Easement land shall have the sole responsibility for the maintenance and repair of the 3 Canyons Roadway Easement and all improvements thereon, and Castle & Cooke shall have no obligation to share in the costs associated therewith.

9. Term. This Agreement shall be deemed effective on the date first written above and shall remain in force and effect in perpetuity.

10. Mutual Indemnification. The 3 Canyons HOA shall indemnify, defend and hold Castle & Cooke harmless for, from and against any and all claims, losses and/or liabilities (including reasonable attorneys’ fees) arising from or in connection with the design, construction, use and/or maintenance of the New Gate and/or arising from or in connection with any default or breach by the 3 Canyons HOA of its obligations under this Agreement. Castle & Cooke shall indemnify, defend and hold the 3 Canyons HOA harmless for, from and against any and all claims, losses and/or liabilities (including reasonable attorneys’ fees) arising from or in

connection with Castle & Cooke's design and construction of the New Monument and/or arising from or in connection with any default or breach by Castle & Cooke of its obligations under this Agreement. Each party agrees to maintain adequate insurance in place to assure compliance with their respective indemnification obligations hereunder.

11. Assignment/Inurement. This Agreement shall run with the lands herein described, and shall inure to the benefit of and bind the respective successors and assigns of the parties hereto. The 3 Canyons HOA shall not otherwise assign its rights under this Agreement.

12. Attorneys' Fees. If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party shall be entitled to receive from the non-prevailing party, in addition to any other relief to which the prevailing party may be entitled, the reasonable attorneys' fees, costs, and expenses incurred by the prevailing party in the action or proceeding.

13. Entire Agreement. This Agreement constitutes the entire agreement between Castle & Cooke and the 3 Canyons HOA relating to the New Gate, the New Monument, the Gate Area and Oaks Roadway Lease, and the 3 Canyons Roadway Easement. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. Any amendment to this Agreement shall be of no force or effect unless it is in writing and signed by Castle & Cooke and the 3 Canyons HOA.

14. Notices. Any notice, request, tender, demand, delivery, approval or other communication provided for, required or arising under this Agreement shall be in writing and shall be deemed delivered (i) if delivered in person, upon delivery to an individual or to an officer of a corporate party; (ii) if mailed, three business days following deposit in the United States mail, registered or certified, return receipt requested, postage prepaid, addressed to the party or parties to whom such notice is given, at the address or addresses provided in this Section 14; or (iii) if telecopied, upon the noticing party's receipt of the telecopy transmittal, transmitted to the other party or parties at the telecopy number provided in this Section 14, provided that in the event of such telecopy transmission, a true and correct copy of the transmission shall also be forwarded to the other party or parties by first class mail. The parties' respective notice addresses, telephone numbers and telecopier numbers are as set forth below, provided, however, that any party may change said party's address, telephone number and/or telecopier number by giving written notice of such change at any time prior to the effective date of any notice given hereunder:

If to Castle & Cooke at:

Castle & Cooke Arizona, Inc.
Attn: Mr. Rick Coffman
4100 Canyon de Flores
Sierra Vista, AZ 85650
Telecopy No. (520) 378-3525

If to the 3 Canyons HOA at:

3 Canyons Ranch Master Homeowners' Association
P.O. Box 970
Hereford, AZ 85615
Telecopy No. (____) _____

15. Governing Law. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Arizona.

16. Amendment. This Agreement may be modified or amended only by a written document executed by all of the undersigned parties.

17. Time of Essence. Time is of the essence with respect to the performance of the parties' respective obligations as set forth in this Agreement.

18. Waiver. The waiver by any party of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach whether of the same or of another provision thereof.

19. Exercise of Rights/Remedies. The exercise of any right or remedy by any party hereunder shall not in any way constitute a cure or waiver of any default hereunder, invalidate any act done pursuant to any notice of default, or prejudice any party in the exercise of any of their respective rights hereunder.

20. Construction. This Agreement is the product of negotiation and shall not be construed as if drafted by only one party, but rather shall be construed as if it had been drafted equally by both parties, and the provisions of any statute, rule or other law which provides for interpretation or construction against the drafting party shall not therefore apply to this Agreement.

21. No Third Party Beneficiaries. Except as expressly stated to the contrary in this Agreement, no term, condition, covenant, representation, warranty or other provision of this Agreement shall confer any rights or benefits on or to any person, party or entity other than the undersigned parties, and no other person, party or entity is or is intended to be a third party beneficiary under this Agreement.

IN WITNESS WHEREOF, Castle & Cooke and the 3 Canyons HOA have executed this Agreement, and agree that it shall be effective as of the date first written above.

**Castle & Cooke: CASTLE & COOKE ARIZONA, INC.,
an Arizona corporation**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

[signatures continue on following page]

THE 3 CANYONS HOA:

**3 CANYONS RANCH MASTER
HOMEOWNERS' ASSOCIATION,
an Arizona non-profit corporation**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____