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**AMENDED AND RESTATED
SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DC RANCH PARCEL 4.19**

THIS DOCUMENT INCLUDES PROVISIONS RESTRICTING LOT OWNERS WITHIN THE SUBJECT SUBDIVISION FROM USING HOMEBUILDERS OTHER THAN HOMEBUILDERS WHO ARE PARTICIPANTS IN THE DC RANCH EXCLUSIVE CUSTOM BUILDER PROGRAM IN THE CONSTRUCTION OF HOMES AND OTHER IMPROVEMENTS ON LOTS WITHIN THE SUBJECT SUBDIVISION -- PROSPECTIVE PURCHASERS OF LOTS WITHIN THE SUBJECT SUBDIVISION SHOULD READ THIS DOCUMENT CAREFULLY

This Amended and Restated Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 4.19 ("Amended Supplemental Declaration") is made effective this 16th day of March, 2000, by DC RANCH L.L.C., an Arizona limited liability company ("Declarant").

A. Declarant is the developer of the master planned community located in the City of Scottsdale, Maricopa County, Arizona, commonly known as DC Ranch (the "Development"); and

B. Declarant executed the DC Ranch Community Council Amended and Restated Declaration of Covenants and Easements and recorded said document in the official records of Maricopa County, Arizona on July 16, 1999, as Document No. 99-0673268 (the "Council Declaration"); and

C. Declarant executed the Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Ranch and recorded said document in the official records of Maricopa County, Arizona on July 16, 1999, as Document No. 99-0673267 (the "Ranch Declaration"); and

D. The Council Declaration and the Ranch Declaration each contemplates that supplemental declarations for parcels located within the Development will be executed and Recorded periodically as the development of the Development proceeds; and

E. Declarant executed and caused to be recorded that certain Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 4.19, recorded on January 18, 2000, as Document No. 00-0037810, records of Maricopa County, Arizona, and that certain Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 4.19, recorded on February 15, 2000, as Document No. 00-01111165, records of Maricopa County, Arizona (collectively, the "Original Supplemental Declarations"); and

F. Declarant wishes by this instrument to amend and restate the Original Supplemental Declarations in their entirety, such that the Original Supplemental Declarations are superseded in their entirety by this Amended Supplemental Declaration.

NOW, THEREFORE, Declarant hereby declares that the Tract shall be held, sold and conveyed subject to the following restrictions, covenants, conditions, terms and provisions:

1. **Amendment and Restatement.** This Amended Supplemental Declaration amends and restates the Original Supplemental Declarations in their entirety, such that the Original Supplemental Declaration are superseded in their entirety by this Amended Supplemental Declaration.

2. **Annexation.** Pursuant to Section 15.2 of the Council Declaration and Section 9.1 of the Ranch Declaration, Declarant hereby declares that the Tract is and shall be subject to the terms and provisions of the Council Declaration and the Ranch Declaration.

3. **Land Use Classification.** The Land Use Classification (as such term is used in Exhibit "C" to the Council Declaration) for the real property within the Tract shall be single-family residential, and construction on such real property shall be limited to single-family dwelling units and related common elements. Notwithstanding the foregoing, however, Declarant reserves to itself, and its successors and assigns (including without limitation any homebuilder in whose favor Declarant executes, acknowledges and records an assignment of rights), the right to construct and install within the Tract one or more temporary construction trailers and other improvements used in connection with the construction and sale of single-family dwellings within the Tract; provided that all such improvements shall be removed from the Tract or (in the case of a model home) converted to a single-family dwelling unit promptly after the completion of all applicable construction and sale activity.

4. **Calculation of Units.** The Tract has been subdivided into twenty-five (25) residential lots (collectively, the "Lots", and each, individually, a "Lot") pursuant to the subdivision plat for the Tract recorded on January 18, 2000, in Book 522 of Maps, Page 01, in the official records of Maricopa County, Arizona (the "Plat"). Accordingly, for purposes of Exhibit "C" to the Council Declaration and Exhibit "D" to the Ranch Declaration, there shall be twenty-five (25) Units in the Tract. If Declarant duly amends the subdivision plat for the Tract, such that the number of Lots in the Tract is greater or less than twenty-five (25), then Declarant may, without obtaining the consent of any owner of any such lot or any portion of the Tract,

amend this Amended Supplemental Declaration to correctly specify the total number of Lots within the Tract.

5. **Neighborhood Assessments.** The Lots, together with certain other property within the Development located north of Thompson Peak Parkway and accessed from Thompson Peak Parkway by private streets, have been or will be designated by the Ranch Association as a Neighborhood, and will be subject to one or more Neighborhood Assessments levied by the Ranch Association with respect to certain Neighborhood Expenses, including without limitation expenses associated with the private streets within the Neighborhood, the guardhouses located on Desert Camp Drive, and open space areas, pocket parks and other recreational facilities located within the Neighborhood. The amount of the levy will be established by the Ranch Association in accordance with the terms of the Ranch Declaration.

6. **Commencement of Assessments.** Without limiting the provisions of Paragraph 5, the Lots are subject to all assessments, fees and other charges duly imposed pursuant to the Council Declaration and all assessments, fees and other charges duly imposed pursuant to the Ranch Declaration. The obligation to pay assessments, fees and other charges under the Council Declaration and assessments, fees and other charges under the Ranch Declaration shall commence as to all Lots effective as of the recording of this Amended Supplemental Declaration in the official records of Maricopa County, Arizona.

7. **DC Ranch Exclusive Builder Program.**

a. **Construction by Participating Builders.** Each Person acquiring title to a residential lot within the Tract (a "Lot"), by the acceptance of a deed or other instrument evidencing such title, hereby agrees that for a period of five (5) years from the date of the closing of the sale of such Lot by Declarant, no dwelling or other improvement may be erected or installed on such Lot unless such dwelling unit or other improvement (including without limitation pool and landscaping) is installed pursuant to a construction contract with a home builder that is a participant in the Exclusive Custom Builder Program maintained by Declarant. Declarant shall maintain a list of such home builders (the "Participating Home Builders"), and shall make such list available upon request.

b. **Disclosure: Payments to Declarant by Participating Home Builders.** Declarant hereby discloses that the Exclusive Custom Builder Program will include the requirement that Participating Home Builders pay fees, commissions and/or other charges to Declarant, or one or more affiliates of Declarant, with respect to participation in the Exclusive Custom Builder Program, and that such fees, commissions or other charges may be based on, among other things, the gross contract price of the dwelling units and other improvements built or installed by Participating Home Builders on the Lots.

c. **Changes to the Program.** Participation by any home builder in the DC Ranch Exclusive Builder Program shall be at the sole and absolute discretion of Declarant. Declarant reserves the right to terminate the participation of any home builder in the Exclusive

Custom Builder Program at any time; provided, that termination of a home builder from the Exclusive Custom Builder Program shall not preclude a Lot owner from using such home builder to complete pending work under a construction contract that was executed before such termination. Declarant reserves the right to revise the terms of the Exclusive Custom Builder Program, at any time, in its sole and absolute discretion, including without limitation revision to the fees, commissions or other charges imposed on Participating Home Builders; provided that any such revision shall not apply to a construction contract between a Lot owner and a participating Home Builder that was executed before such revision is implemented.

d. Liability for Acts of Participating Builders. Neither the foregoing provisions nor the inclusion or exclusion of any home builder from participation in the Exclusive Custom Builder Program shall cause Declarant to be deemed (i) an agent of any Participating Home Builder, or (ii) responsible for the performance of any obligation under the construction contract between any Participating Home Builder and the owner of any Lot (or any other obligation of any Participating Home Builder to such Lot owner), or (iii) otherwise liable in any manner to any such owner or any other Person for the acts or omissions of any Participating Home Builder. Each Person acquiring title to a Lot, by the acceptance of a deed or other instrument evidencing such title, hereby agrees to hold Declarant harmless with respect to the acts and omissions of the Participant Home Builders.

e. No Third Party Beneficiaries. Without limiting the generality of any other provision in this Amended Supplemental Declaration, no Participating Home Builder is intended to be a third party beneficiary of any provision of this Paragraph 7, or to hold any beneficial rights or rights of enforcement of the terms of this Paragraph 7.

8. Building Envelopes. The construction of single-family dwellings within the Lots shall be subject to various approval requirements of the Covenant Commission, as set forth in The Covenant and in the Community Design Book and Design and Construction Manual adopted by the Covenant Commission with respect to residential construction. Such requirements include, among other things, the requirement that any construction plans submitted to the Covenant Commission include a depiction of a construction envelope on the Lot, the location and dimensions of which shall be subject to Covenant Commission review and approval. All construction activities on the Lot shall conform to the requirements pertaining to such construction envelopes set forth in the Construction Guidelines adopted by the Covenant Commission. Approval by the Covenant Commission of construction plans for any such Lot shall include the requirement that the owner of the Lot grant to the Covenant Commission an easement for preservation of natural open space (using a form to be provided by the Covenant Commission) over all areas within the Lot and outside of such construction envelope. No construction of any improvements shall be permitted in any such areas. The Lot owner shall be responsible for maintenance of all improvements, landscaping and natural open space areas within the Lot in accordance with the Community-Wide Standard applicable to the Development and all other requirements of the Governing Documents; provided that Declarant hereby reserves to itself and the Community Council and the Ranch Association (or the agent or contractor of any of them) the right to enter upon such areas to perform such maintenance if the Lot owner fails to do so.

9. **Maintenance Easement.** With respect to each and every Lot (each a "Golf Lot") in the Tract that shares a common boundary with the private golf course located adjacent to the Tract (the "Golf Course"), Declarant hereby reserves to itself and its successors and assigns, and hereby grants to the Community Council and its successors and assigns, and to the owner of the Golf Course, an easement over that area (the "Golf Lot Transition Area") within each Golf Lot that lies between the boundary of the Golf Course and the lot perimeter wall located on such Golf Lot (the "Golf Lot Perimeter Wall"), for purposes of access over, upon and across such Golf Lot Transition Area as reasonably necessary to inspect and maintain such Golf Lot Transition Area, and to inspect, maintain and repair the exterior of such Golf Lot Perimeter Wall, in accordance with the maintenance requirements imposed on the owner of such Golf Lot under the Council Declaration, the Ranch Declaration, the Covenant, Paragraph 8 above, any and all other applicable private governance standards, and the standards imposed by law.

10. **Maintenance of Streetscape Areas.** Any area that is located within a private street tract as shown on the Plat but outside of the private street improvements built within such private street tract, including any landscaping improvements located in such area (a "Streetscape Area"), shall be maintained by the owner of the adjacent Lot or Area of Common Responsibility (as applicable) to the Community-Wide Standard and any and all other standards required for maintenance of such Lot or Area of Common Responsibility. If a Lot owner shall fail to meet its maintenance obligations under this Paragraph 10, the Ranch Association shall have the right to perform such maintenance on behalf of such owner and to enter upon such owner's Lot to the extent reasonably necessary do so.

11. **Lighting of Paths and Trails.** Declarant reserves to itself and its successors and assigns the right to install, remove, maintain, replace and repair lighting fixtures, related electrical lines and other related facilities, within the areas designated on the Plat as Tracts "B" through "D", inclusive, for the purpose of facilitating pedestrian use of private and public trails located within such areas. The design and location of such fixtures, lines and related facilities shall be as determined by The Covenant Commission, consistent with the Community Design Book, and The Covenant Commission shall determine from time to time the days and hours of the day on which such lighting fixtures shall be operated.

12. **Revegetation.** Declarant reserves to itself and its successor and assigns an easement over, upon and across those portions of the Lots on which the natural vegetation is disturbed by the construction or installation of street improvements or other infrastructure improvements, for purposes of access as may be necessary (a) to revegetate such areas with native plants in accordance with the Environmental Design Study for DC Ranch Planning Units II and IV approved by the City of Scottsdale in Zoning Case No. 54-ZN-89#2, (b) for purposes of installing, constructing, maintaining, replacing and repairing such irrigation controllers, backflow prevention devices, water lines, irrigation lines and other facilities, as needed in connection with such revegetation, and (c) to maintain all revegetated plants, to the extent, if any, Declarant deems such maintenance appropriate in connection with such revegetation.

13. **Photography of Homes.** Each Person acquiring title to a Lot, by the acceptance of a deed or other instrument evidencing such title, hereby consents to having the exterior of any residence constructed on such Lot photographed by professional photographers contracted by Declarant, and agrees that such photographs may be used by Declarant in advertising and marketing materials and also may be used to demonstrate design guideline principles applicable to structures constructed at the Development. All such photographs and all such uses shall be at no cost to such Lot owner and such Lot owner shall allow such uses free of charge and without compensation to such Lot owner. All uses shall be implemented in a professional and tasteful, first-class manner. Each photography session, if any, shall be conducted at a mutually convenient time and date as agreed between the Lot owner and Declarant. The photography crew shall have the right to enter onto the Lot on the day of the photography session to conduct its work. Any damage caused by such crew shall be the responsibility of Declarant who shall promptly cause any such damage to be repaired, entirely at its cost, and with minimal inconvenience to the Lot owner.

14. **Enforcement.** The Community Council may recover from any Lot owner who fails to maintain its Lot or any portion thereof or any adjacent Streetscape Area as required by any of Paragraphs 8, 9 or 10 above any and all costs incurred by the Community Council in performing such maintenance on the owner's behalf pursuant to any of said Paragraphs 8, 9 or 10. In addition, without limiting any other rights or remedies available to the Community Council, in all cases of an owner's failure to maintain as required by any of Paragraphs 8, 9 or 10, the Community Council may impose a Specific Assessment under the Council Declaration against the owner's property within the Development in the amount of such costs or damages, which assessment shall be immediately due and payable upon delivery of notice of such assessment to the owner. All or any portion of the foregoing rights of the Community Council may be delegated to the Association pursuant to Section 6.10 of the Council Declaration (provided that any Specific Assessment levied by the Association in accordance with this paragraph shall be levied pursuant to the Ranch Declaration).

15. **Interpretation.** This Amended Supplemental Declaration shall run with the land within the Tract, shall be binding on all parties having or acquiring any right, title or interest in the Tract or any part thereof, and their respective heirs, successors and assigns, and shall be enforceable in accordance with and as a part of the Council Declaration and the Ranch Declaration.

16. **Incorporation of Declarations.** The Council Declaration and the Ranch Declaration each is expressly incorporated herein and made a part hereof by this reference. Unless otherwise defined herein, every capitalized term and expression used herein shall have the same meaning as set forth for such terms and expressions in the Council Declaration and the Ranch Declaration, as applicable. In the event of any conflict between the terms of the Council Declaration or the Ranch Declaration and the terms of this Amended Supplemental Declaration, the terms of the Council Declaration or the Ranch Declaration, as applicable, shall control.

17. Amendment. This Amended Supplemental Declaration may be amended in the same manner as the Ranch Declaration may be amended in accordance with the provisions of the Ranch Declaration.

IN WITNESS WHEREOF, Declarant has executed the foregoing instrument as of the date first set forth above.

DC RANCH L.L.C., an Arizona limited liability company

By: DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, Administrative Member

By: DMB GP, INC., an Arizona corporation, its General Partner

By: *Charley Freericks*
Its: *V.P.*

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 16th day of ^{March} ~~January~~, 2000, by Charley Freericks, the Vice President, of DMB GP, INC., an Arizona corporation, in its capacity as General Partner of DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, in its capacity as Administrative Member of DC RANCH L.L.C., an Arizona limited liability company, for and on behalf thereof.

Carolynn Sneddon
Notary Public

My Commission Expires:
07-14-02

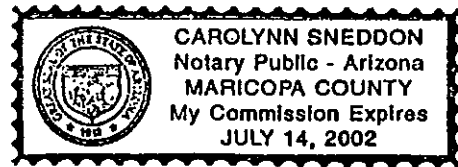


Exhibit "A"

Legal Description

Lots 817 through 841, inclusive, and Tracts "A" through "E", inclusive, of DC RANCH PARCEL 4.19, a subdivision according to the plat recorded in Book 522 of Maps, Page 01, records of Maricopa County, Arizona.