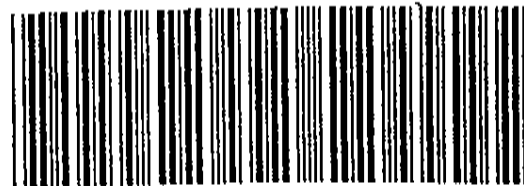


When recorded, return to:

Lois Savage, Esq.
DMB Associates, Inc.
4201 North 24th Street
Suite 120
Phoenix, Arizona 85016



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

98-0383038 05/08/98 12:34

TOTY 2 OF 2

**AMENDMENT TO SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DC RANCH PARCEL 4.6**

This Amendment to Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 4.6 ("Amendment") is made effective this 30 day of April, 1998, by DC RANCH L.L.C., an Arizona limited liability company ("Declarant").

A. Declarant executed the Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 4.6 (the "Original Declaration") and caused same to be recorded as Document No. 97-0324224, official records of Maricopa County, Arizona; and

B. Declarant executed the DC Ranch Parcel 4.6 (the "Plat") and caused same to be recorded in Book 441 of Maps, at Page 17, official records of Maricopa County, Arizona; and

C. Declarant has executed the DC Ranch Parcel 4.6 Replat (the "Amended Plat") and has caused same to be recorded of even date herewith in the official records of Maricopa County, Arizona; and

D. Declarant wishes to amend the Original Declaration to reflect that "Tract" (as defined in the Original Declaration) contains fifty-three (53) "Lots" (as defined in the Original Declaration), due to the deletion of a Lot from the Tract pursuant to the Amended Plat:

NOW, THEREFORE, Declarant hereby declares as follows:

1. **Amendment.** Paragraph 3 of the Original Declaration is hereby deleted in its entirety and the following is hereby substituted therefor:

3. **Calculation of Units.** The Tract has been subdivided into fifty-three (53) residential lots pursuant to the subdivision plat for the Tract recorded on May 12, 1997 as in Book 441, Page 17 (the "Plat"), as amended. Accordingly, for purposes of Exhibit "C" to the Council Declaration and Exhibit "D" to the Ranch Declaration, there shall be fifty-three (53) Units in the Tract. If Declarant duly amends the subdivision plat for the Tract, such that the number

of residential lots in the Tract is greater or less than fifty-three (53), then Declarant may, without obtaining the consent of any owner of any such lot or any portion of the Tract, amend this Supplemental Declaration to correctly specify the total number of residential lots within, and Units attributable to, the Tract.

2. **Interpretation.** This Amendment 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 Original 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., General Partner

By: Jain Savage
Its: Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 30 day of April, 1998, by Lois Savage, 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.



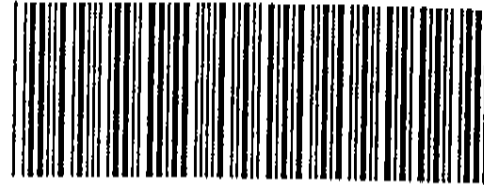
Annette Anghel
Notary Public

My Commission Expires:

LAWYERS TITLE OF ARIZONA, INC.

When recorded, return to:

Lois Savage, Esq.
DMB Associates, Inc.
4201 North 24th Street
Suite 120
Phoenix, Arizona 85016



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

97-0324224 05/15/97 11:17

BECKY 32 OF 35

**SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DC RANCH PARCEL 4.6**

This Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 4.6 ("Supplemental Declaration") is made effective this 14th day of May, 1997, 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 Declaration of Covenants and Easements and recorded said document in the official records of Maricopa County, Arizona on December 13, 1996 as Document No. 96-0868790 (the "Council Declaration"); and

C. Declarant executed the Declaration of Covenants, Conditions and Restrictions for the Ranch and recorded said document in the official records of Maricopa County, Arizona on December 13, 1996 as Document No. 96-0868791 (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 wishes to cause that portion of the Development described on Exhibit "A" attached hereto (the "Tract") to become subject to the Council Declaration and the Ranch Declaration, and to be developed in accordance with certain supplemental covenants, conditions and restrictions as set forth herein.

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. **Annexation.** Pursuant to Section 14.2 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.

2. **Land Use Classification.** The Land Use Classification (as such term is used in Exhibit "C" to the Council Declaration and Exhibit "D" to the Ranch 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 sales trailers, temporary construction trailers, model homes (and related parking areas), 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.

3. **Calculation of Units.** The Tract has been subdivided into fifty-four (54) residential lots pursuant to the subdivision plat for the Tract recorded on May 12, 1997 as in Book 441, Page 17 (the "Plat"). Accordingly, for purposes of Exhibit "C" to the Council Declaration and Exhibit "D" to the Ranch Declaration, there shall be fifty-four (54) Units in the Tract. If Declarant duly amends the subdivision plat for the Tract, such that the number of residential lots in the Tract is greater or less than fifty-four (54), then Declarant may, without obtaining the consent of any owner of any such lot or any portion of the Tract, amend this Supplemental Declaration to correctly specify the total number of residential lots within, and Units attributable to, the Tract.

4. **Neighborhood Assessments.** The residential lots depicted on the Plat (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, 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.

5. **Commencement of Assessments.** Without limiting the provisions of Paragraph 4, the Units within the Tract (a) are subject to all assessments duly imposed pursuant to Article VIII of the Council Declaration, and (b) are subject to all assessments duly imposed pursuant to Article VIII of the Ranch Declaration. The obligation to pay assessments under the Council Declaration shall commence as to all Units within the Tract effective as of the recording of this Supplemental Declaration in the official records of Maricopa County, Arizona. The obligation to pay assessments under the Ranch Declaration shall commence as to all Units within the Tract effective as of the recording of this Supplemental Declaration in the official records of Maricopa County, Arizona.

6. **Square Footage Limitation.** To assure the availability of homes in a variety of price ranges in the Development, no home may be constructed on the Tract unless such home contains not less than 3,500 square feet of air conditioned living space and not more than 5,000 square feet of air conditioned living space. In the event of any violation of the restriction set forth in the immediately preceding sentence, Declarant may, after giving the owner of the property on which the home was built not less than five (5) business days notice and opportunity to satisfy Declarant as to such owner's proposed cure and to commence such cure, pursue any remedy available at law or in equity. Any and all persons acquiring title to the Tract acknowledge that Declarant is relying upon the restriction contained in this paragraph in implementing Declarant's overall marketing strategy for the Development and that the breach of such covenant would cause irreparable harm to Declarant, and that Declarant will not have an adequate remedy available at law. Accordingly, Declarant shall be entitled to obtain injunctive relief from a court of competent jurisdiction if any such person breaches, or is in anticipatory breach of, the covenant contained in this paragraph, and Declarant shall be awarded a judgment for reasonable attorneys' fees, expert witness fees, pre-trial discovery costs and all other court costs and fees incurred by Declarant as part of any injunctive relief granted by the court. The covenant set forth in this paragraph shall be for the benefit of Declarant, and shall not be enforceable by any person other than Declarant, and shall not be for the benefit of or create any rights in favor of any third parties.

7. **Construction and Maintenance Requirements.** 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 adopted by the Covenant Commission with respect to residential construction and the Construction Guidelines adopted by the Covenant Commission. Each 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. Acceptance by the Community Council or the Ranch Association (as applicable) of improvements to be constructed in areas outside of the Lots shall be subject to compliance with the requirements

of the Community Design Book and the Construction Guidelines and subject to the improvements' compliance with the requirements of The Covenant.

8. **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 8, 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.

9. **Drainage Area Boundary Walls and Party Walls.** For purposes of this Supplemental Declaration, (a) the term "Drainage Area Boundary Wall" shall mean a wall located within the Tract and constructed on, or meandering along, the common boundary of an Area of Common Responsibility and a Lot, and that is installed in connection with drainage improvements to the Tract, and (b) the term "Party Wall" shall mean a wall located within the Tract and constructed on, or immediately adjacent to, the common boundary of two Lots. The rights and duties of Lot owners and the Ranch Association with respect to Drainage Area Boundary Walls and Party Walls shall be as follows:

(i) The Ranch Association and the Lot owner who have a Drainage Area Boundary Wall on or meandering along their common boundary shall both equally have the right to use such Drainage Area Boundary Wall, provided that such use by one such party does not interfere with the use and enjoyment of such Drainage Area Boundary Wall by the other, and two Lot owners who have a Party Wall on or adjacent to their common boundary shall both equally have the right to use such Party Wall, provided that such use by one such party does not interfere with the use and enjoyment of such Party Wall by the other;

(ii) If any Drainage Area Boundary Wall or Party Wall is damaged or destroyed through the act of an adjacent Lot owner or any of such owner's tenants, invitees, agents, guests or family members (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Lot owner to rebuild and repair the Drainage Area Boundary Wall or Party Wall without cost to the Ranch Association or the other Lot owner (as applicable). Any liability imposed on a Lot owner hereunder shall not prevent the Lot owner from seeking indemnity therefor from the person(s) causing such damage;

(iii) If any Party Wall is destroyed or damaged (including by deterioration from ordinary wear and tear), other than by the act of an adjacent Lot owner or any of such owner's tenants, invitees, agents, guests or family members, it shall be the joint

obligation of the two Lot owners to rebuild and repair such wall to its pre-existing condition at their joint expense, such expense to be divided equally between them; provided, however, that if such damage or destruction is limited to the surface of the Party Wall, then the obligation to repair such damage or destruction shall be the sole responsibility of the owner of the adjacent Lot toward which such surface faces, at such owner's sole expense;

(iv) If any structural element of a Drainage Area Boundary Wall is destroyed or damaged (including by deterioration from ordinary wear and tear), other than by the act of an adjacent Lot owner or any of such owner's tenants, invitees, agents, guests or family members, then the obligation to repair such damage or destruction shall be the sole responsibility of the Ranch Association, at its sole expense; provided, however, that if such damage or destruction is limited to the surface of the Drainage Area Boundary Wall, then the obligation to repair such damage or destruction shall be the sole responsibility of the owner of the adjacent property toward which such surface faces, at such owner's sole expense;

(v) Notwithstanding anything to the contrary herein contained, there shall be no modification of any Drainage Area Boundary Wall or impairment of the structural integrity of any Drainage Area Boundary Wall without the prior consent of the Ranch Association and the Covenant Commission, and there shall be no modification of any Party Wall or impairment of the structural integrity of any Party Wall without the prior consent of the owners of both adjacent Lots and the Covenant Commission;

(vi) Anything in the foregoing to the contrary notwithstanding, the Ranch Association shall have no responsibility for the repair or maintenance of any Drainage Area Boundary Wall pursuant to this Paragraph 9 unless and until it has approved the construction of such Drainage Area Boundary Wall and accepted in writing maintenance responsibility (to the extent provided herein) for such Drainage Area Boundary Wall;

(vii) If a Lot owner shall fail to meet its maintenance or repair obligations under this Paragraph 9, the Ranch Association shall have the right to perform such maintenance or repair on behalf of such owner and to enter upon such owner's Lot to the extent reasonably necessary do so; and

(viii) If a portion of a Drainage Area Boundary Wall (in its original location as approved by the Ranch Association and Covenant Commission, or as it may be relocated with the approval of Ranch Association and the Covenant Commission) encroaches onto a Lot or encroaches onto an Area of Common Responsibility, then (a) the owner of the property onto which the Drainage Area Boundary Wall encroaches (the "Burdened Property") shall be deemed to have granted an easement of access and enjoyment to the owner of the adjacent Lot or Area of Common Responsibility (the "Benefitted Property") over that portion of the Burdened Property lying on the same side of the Drainage Area Boundary Wall as the Benefitted Property (the "Easement Area"), and (b) the owner of the Benefitted Property shall be responsible for

maintenance of the Easement Area in accordance with all maintenance standards applicable to the adjacent portion of the Benefitted Property, whether such maintenance standards are imposed pursuant to the Community Council Governing Documents, the Ranch Governing Documents, or any other governing law or agreement.

10. **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 7 above, any and all other applicable private governance standards, and the standards imposed by law.

11. **Pedestrian Lighting.** 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 "A" through "K", for the purpose of facilitating pedestrian use of private streets and private 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. **Enforcement.** The Community Council may recover from any Lot owner who fails to repair or maintain its Lot, or any adjacent Drainage Area Boundary Wall, Party Wall or Streetscape Area, or any portion thereof as required by Paragraph 7, 8 or 9 above any and all costs incurred by the Community Council in performing such repair or maintenance on the owner's behalf pursuant to Paragraph 7, 8 or 9 (as applicable). In addition, without limiting any other rights or remedies available to the Community Council, 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, 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 Ranch Association pursuant to Section 6.10 of the Council Declaration (provided that any Specific Assessment levied by the Ranch Association in accordance with this paragraph shall be levied pursuant to the Ranch Declaration).

13. **Interpretation.** This 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 Declaration.

14. **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 Supplemental Declaration, the terms of the Council Declaration or the Ranch Declaration, as applicable, shall control.


15. **Amendment.** This Supplemental Tract 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., General Partner

By: 

Its: VICE PRESIDENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 14 day of May, 1997, by Charles R. Matthews 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.

Annette Anghel
Notary Public

My Commission Expires:

9-13-99

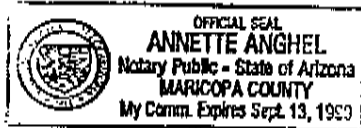


Exhibit A

Legal Description

Lots 101 through 154, inclusive, and Tracts "A" through "K", inclusive, of DC RANCH PARCEL 4.6, a subdivision according to the plat recorded in Book 441 of Maps, Page 17, records of Maricopa County, Arizona.