

*The following is a summary of The Covenant Commission's functions*

## COVENANT COMMISSION

- Has ultimate control over Residential and Commercial *Product*
- Enforces The Covenant which
  - establishes & upholds standards
  - establishes & maintains excellence
  - creates predictability
- Has authority over future development
- Interprets, applies, & modifies Community Design Book

### COMMUNITY DEVELOPMENT

*Declarant reserves various rights in order to facilitate the smooth and orderly development of DC Ranch and to accommodate changes in the plan which inevitably occur as a community the size of DC Ranch grows and matures.*

#### Article XIV

#### DECLARANT'S RIGHTS

14.1 Duration. Unless otherwise specifically indicated in this Declaration, Declarant's rights hereunder shall exist for so long as Declarant, any affiliate of Declarant, or any assignee of Declarant's rights owns any property described in Exhibit "A" or "B."

14.2 Transfer of Declarant Rights. Any or all of the special rights and obligations of Declarant reserved in this Declaration may be transferred in whole or in part to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the Bylaws. No such transfer shall be effective unless it is in a written instrument signed and Recorded by Declarant. Any such transfer may be made effective only for so long as the transferee is the owner of any property described in Exhibit "A" or "B," provided, after such time any rights shall revert to the transferor for so long as it owns any property described in Exhibit "A" or "B."

The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety. In such case, it shall not be a requirement that the written assignment be Recorded, but Declarant may Record the assignment, in its discretion, to evidence its intentions.

14.3 Approval of Additional Covenants. Prior to Recording any covenants, conditions, and restrictions; plat; declaration of condominium; or similar instrument affecting any portion of the property described in Exhibit "A" or "B," the Person seeking to Record such instrument shall request review and approval. So long as Declarant owns any property described in Exhibit "A" or "B," the Declarant's permission is required. Thereafter, the Community Council's permission is required. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by Recorded consent signed by Declarant, so long as Declarant owns any property described in Exhibit "A" or Exhibit "B," or the Community Council thereafter.

14.4 Amendment. This Article may not be amended without the written consent of Declarant so long as Declarant, or the assignee of any Declarant rights, owns any property described in Exhibit "A" or "B."

14.5 Existing Supplemental Declarations. Each of the Existing Supplemental Declarations is hereby deemed to supplement this Declaration, and each is hereby ratified and confirmed by the Declarant. The terms of each Existing Supplemental Declaration, with respect to the parcel affected thereby, are hereby incorporated into this Declaration as if fully set forth herein. In the event of any conflict between the terms of this Declaration and the terms of any Existing Supplemental Declaration, the terms of this Declaration shall control.

## CHANGES IN THE COMMUNITY

*Communities such as DC Ranch are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change; as the residents age and change over time; and as the surrounding community changes. DC Ranch and its governing documents must be able to adapt to these changes while protecting the things that make DC Ranch unique.*

## Article XV GENERAL

15.1 Notice. Any notice provided for in this Declaration shall be served personally; shall be mailed by United States Mail, first class, postage prepaid, registered or certified mail; or shall be transmitted by facsimile, computer, fiber optics or any such other electronic communication device to the president or secretary of the Community Council or a Ranch Association, as applicable, at its address within the DC Ranch community or at such other address as is designated in writing with the Community Council. All such notices shall, for all purposes, be deemed delivered (a) upon personal delivery to the party or address specified above; (b) on the third day after being deposited in the United States Mail (whether by first class, registered or certified mail), postage prepaid, and properly addressed, (c) upon transmission by facsimile and confirmation of receipt, or (d) on the third day after being transmitted to proper address by other electronic communication device.

## 15.2 Annexation.

(a) Unilateral Annexation By Declarant. Until the first to occur of all property described in Exhibit "B" being subjected to this Declaration, or 50 years after the Recording of this Declaration, Declarant shall have the unilateral right, privilege, and option at any time to subject all or any portion of the real property described in Exhibit "B" to the terms and provisions of this Declaration. Such annexation shall be accomplished by Recording Supplemental Covenants describing the property to be annexed. Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the owner of at least a portion of the real property described in Exhibit "A" or "B" and that such transfer or assignment is memorialized in a written, Recorded instrument executed by Declarant.

Nothing herein shall preclude the annexation of property that is not owned by Declarant, provided the owner thereof executes a written consent to such annexation. Declarant's rights to subject additional land to this Declaration shall not, and shall not be implied or construed so as to, impose any obligation upon Declarant to subject any additional land to this Declaration.

(b) Annexation by Others. No party other than Declarant may submit any property to the terms of this Declaration without Declarant's written consent, so long as Declarant owns any property described in Exhibit "A" or Exhibit "B," or of the Community Council thereafter. Any attempted submission of property to the terms of this Declaration without such consent shall result in the instrument purporting to submit such property's being void and of no force and effect, unless subsequently approved by Recorded consent signed by Declarant, so long as Declarant owns any property described in Exhibit "A" or Exhibit "B," or the Community Council thereafter.

15.3 Transfer or Dedication of Community Property. The Community Council may dedicate portions of the community property to local, state, or federal governmental or quasi-governmental entities.

The Community Council may exchange property with any private entity or with local, state, or federal governmental or quasi-governmental entities, and modify common area boundaries in accordance with such exchange, so long as such exchange is deemed by the Community Council to be in the best interest of the owners of property subject to this Declaration; provided, any such property exchange and any corresponding common area boundary modification shall be memorialized in a written Recorded agreement, executed by the Community Council.

15.4 Enforcement. This Declaration is made for the express benefit of the Community Council, all owners, and any Ranch Association(s). The obligations created hereunder may be enforced by any means available at law or in equity by Declarant, the Community Council, any owner, or any Ranch Association.



15.5 Governmental Interests. So long as Declarant owns any portion of the real property described in Exhibit "A" or "B," Declarant may designate sites within the DC Ranch community for fire, police, utility facilities, public parks, and other public or quasi-public facilities. The sites may include undeveloped portions of the DC Ranch community, in which case the Community Council shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant.

15.6 Amendment.

(a) By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, this Declaration may be amended unilaterally by Declarant for so long as Declarant owns any portion of real property described in Exhibit "A" or "B" if such amendment (i) is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which is in conflict therewith; (ii) is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the DC Ranch community; (iii) is required by an institutional or governmental lender, purchaser, holder, insurer or guarantor of mortgage loans to enable it to make, purchase, insure or guarantee mortgage loans on any portion of the DC Ranch community; or (iv) does not materially and adversely affect the title to any individually owned property unless the owner thereof shall consent thereto in writing.

(b) By Community Council. In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the Board and, so long as Declarant owns any portion of the DC Ranch community, the consent of Declarant or its assignee. However, no amendment shall be effective if, at a meeting, at least 2/3 vote of the total number of Ranch Associations disapprove and if more than 50% of all commercial owners subject to assessment in accordance with Section 9.10 and Exhibit "C" do so. For a Ranch Association to disapprove it must have the concurrence of a majority of its membership.

The Community Council shall notify each Ranch Association and commercial owner of its intention to amend this Declaration within 30 days of receiving the affirmative vote or written consent, or any combination thereof, of at least a majority of the Directors and any requisite consent of Declarant. The Community Council shall have no obligation to call a meeting for the purpose of considering the amendment except (i) in the event only one Ranch Association exists at the time the notice of the intention to amend this Declaration is sent, a 2/3 majority vote of the members of the Ranch Association in favor of a meeting for the purpose of considering the amendment of this Declaration shall be required. The results of such vote to be presented to the Community Council ten days after delivery of the notice of the intention to amend this Declaration; (ii) in the event that two or more Ranch Associations exist at the time the notice of intention to amend this Declaration is sent, a petition of two or more Ranch Associations and at least 50% of all commercial owners subject to assessment in accordance with Section 9.10 and Exhibit "C" shall be required. Such petition shall be presented to the Community Council within ten days of delivering to all Ranch Associations and commercial owners the notice of its intention to amend this Declaration. No amendment by the Community

Council may materially and adversely affect the title to any individually owned property unless the owner thereof shall consent thereto in writing.

Notwithstanding the above, no amendment shall remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or its assignee of such right or privilege, and all amendments must be consistent with the requirements set forth in the First Amendment to Development Agreement recorded on July 21, 1995 as Document No. 95-0425859, official records of Maricopa County, Arizona, as amended from time to time (the "Development Agreement").

(c) Validity of Amendments. Amendments to this Declaration shall become effective upon Recordation, unless a later effective date is specified therein. Any challenge to an amendment must be made within six months of its Recording. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

15.7 Duration. Unless terminated as provided below, this Declaration shall have perpetual duration. If Arizona law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each, unless terminated as provided below. Notwithstanding the above, if any provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Unless otherwise required by Arizona law, this Declaration shall not be terminated except by an instrument approved by the following: a majority of the Ranch Associations, each of which has received consent from at least 75% of its members; a majority of the owners subject to this Declaration who are not members of any Ranch Association, if any; a majority of the Directors; and, so long as Declarant owns any property described in Exhibit "A" or "B," the consent of Declarant.

Notwithstanding any other provision of this Declaration, this Declaration shall not terminate without the consent of the City of Scottsdale, Arizona for so long as such termination is prohibited by the Development Agreement or until July 31, 2020, whichever is later.

15.8 Interpretation. This Declaration shall be governed by Arizona law.

15.9 Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

15.10 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid. If the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be

given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

15.11 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration on the 7<sup>th</sup> day of July, 1999.

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,  
general partner

By Charley Freericks  
Charley Freericks  
Vice President

State of Arizona            )  
                                      ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of July, 1999, by Charley Freericks, Vice President of DMB GP, Inc., an Arizona corporation, for and on behalf of the corporation as general partner of DMB Property Ventures Limited Partnership, a Delaware limited partnership, for and on behalf of the partnership as the administrative member of DC Ranch L.L.C., an Arizona limited liability company, for and on behalf of the limited liability company.

My Commission Expires:  
7-14-02

DCRANCH\GOVERNANCE\WORD\CCRCC-RV

