

When recorded, return to:
LAWYERS HUNT & TAYLOR, P.L.C. ARIZONA, INC.

Gordon E. Hunt, Esq.
Biskind, Hunt & Taylor, P.L.C.
11201 North Tatum Boulevard
Suite 330
Phoenix, Arizona 85028



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2002-0993937 09/26/02 16:39
2 OF 4

BUSTAMANTE

1/3 361931B

**SECOND AMENDED AND RESTATED
SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DC RANCH PARCEL 2.3**

This Second Amended and Restated Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 2.3 ("**Second Amended Supplemental Declaration**") is made effective this 26 day of September, 2002, 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**"), a portion of which is described on Exhibit "A" attached hereto (the "**Tract**"); 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 the Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 2.3 and recorded said document in the official records of Maricopa County, Arizona on January 11, 2000, as Document No. 2000-24643 (the "**Original Supplemental Declaration**"), with respect to a portion of the Tract; and

F. Declarant executed the Amended and Restated Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 2.3 to amend and restate the Original Supplemental Declaration in its entirety, and recorded said document in the official

records of Maricopa County, Arizona on March 9, 2001, as Document No. 2001-0185622 (the "**First Amended Supplemental Declaration**"), with respect to a portion of the Tract; and

F. Declarant wishes by this instrument to amend and restate the First Amended Supplemental Declaration in its entirety, such that the First Amended Supplemental Declaration is superseded in its entirety by this Second Amended Supplemental Declaration, which shall apply to the entire Tract.

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 Second Amended Supplemental Declaration amends and restates the First Amended Supplemental Declaration in its entirety, such that the First Amended Supplemental Declaration is superseded in its entirety by this Second 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 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 (including attached 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.

4. **Calculation of Units.** The Tract has been subdivided into seventy-five (75) residential lots (collectively, the "**Lots**", and each, individually, a "**Lot**") pursuant to (a) the Final Plat for DC Ranch Parcel 2.3 recorded at Book 521 of Maps, Page 3, official records of Maricopa County, Arizona (the "**Parcel 2.3 Plat**") and (b) the Final Plat for DC Ranch Parcel 2.3B recorded of even date herewith in the official records of Maricopa County, Arizona (the "**Parcel 2.3B Plat**"). The Parcel 2.3 Plat and the Parcel 2.3B Plat shall be collectively referred to herein as the Plats. Accordingly, for purposes of Exhibit "C" to the Council Declaration and Exhibit "D" to the Ranch Declaration, there shall be seventy-five (75) Lots in the Tract. If Declarant duly amends either the Parcel 2.3 Plat or the Parcel 2.3B Plat, such that the number of Lots in the Tract is greater or less than seventy-five (75), then Declarant may, without obtaining the consent of any owner of any such Lot or any portion of the Tract, amend this Second Amended Supplemental Declaration to correctly specify the total number of Lots within the Tract.

5. **Neighborhood Assessments; Working Capital Fee.**

a. **Neighborhood Assessments.** Pursuant to Section 6.4(a) of the Ranch Declaration, the portion of the Tract located within the Parcel 2.3 Plat has been designated as a Neighborhood, and has been made subject to one or more Neighborhood Assessments levied by the Ranch Association (the amount of which has been and will be established by the Ranch Association in accordance with the terms of the Ranch Declaration) with respect to relevant Neighborhood Expenses, including without limitation (a) expenses incurred by the Ranch Association pursuant to Paragraph 7(d)(i) below, (b) expenses incurred by the Ranch Association in connection with any action taken by the Ranch Association pursuant to Paragraph 7(d)(ii) below (except as otherwise provided in Paragraph 7(d)(iv) below), and (c) the cost of any insurance procured by the Ranch Association pursuant to Paragraph 8 below. Also pursuant to Section 6.4(a) of the Ranch Declaration, effective as of the recording of this Supplemental Declaration, the portion of the Tract located within the Parcel 2.3B Plat will be designated as part of the same Neighborhood, and will be subject to the same Neighborhood Assessments with respect to the same types of Neighborhood Expenses.

b. **Capital Contributions.** Pursuant to Section 8.3 of the Ranch Declaration, and in addition to any other capital contributions that otherwise may be required, upon acquisition of record title to a Unit within the Tract by the first Owner thereof other than Declarant or a Builder, such first Owner shall make a contribution to the capital of the Ranch Association, the amount of which will be established by the Ranch Association in accordance with the terms of the Ranch Declaration. Such capital contribution shall be used for the purpose of defraying expenses incurred by the Ranch Association in connection with the performance of functions contemplated by this Supplemental Declaration.

c. **Voting Neighborhood.** Notwithstanding any designation of the Tract as a Neighborhood for purposes of allocating Neighborhood Assessments as set forth in Paragraph 4(a), Declarant reserves the right to separately designate all or any portion of the Tract as a Neighborhood or as part of a larger Neighborhood for purposes of electing Voting Members pursuant to Section 6.4 of the Ranch Declaration, and for all related purposes.

6. **Commencement of Assessments.** Without limiting the provisions of Paragraph 5 above, the Lots are subject to all assessments, fees and other charges duly imposed pursuant to the Council Declaration, and to all assessments, fees and other charges duly imposed pursuant to the Ranch Declaration. The obligation to pay such assessments, fees and other charges under the Council Declaration and the Ranch Declaration (a) commenced, as to all Lots located within the Parcel 2.3 Plat, effective as of the recording of the Original Supplemental Declaration in the official records of Maricopa County, Arizona, and (b) shall commence, as to all Lots located within the Parcel 2.3B Plat, effective as of the recording of this Second Amended Supplemental Declaration in the official records of Maricopa County, Arizona.

7. **Construction and Maintenance Requirements.**

a. **Definitions.** As used in this instrument, the following terms shall have the following meanings:

(i) **"Dwelling Unit"** means a single-family dwelling unit constructed on a Lot (including an attached single-family dwelling), including the garage, landscaping, walls, fences, patios, pools, spas, and other improvements to the Lot;

(ii) **"Lot Streetscape Area"** means any and all areas that are located within Tract "A" (as shown on each of the Plats), directly between the boundary of a Lot and the edge of the private street improvements initially constructed within Tract "A";

(iii) **"Neighborhood Committee"** means the Neighborhood Committee elected by the owners of the Lots in accordance with Section 5.3 of the Amended and Restated Bylaws of the Ranch Association; and

(iv) **"Common Streetscape Area"** means any and all areas that are located within Tract "A" (as shown on each of the Plats), directly between the boundary of a common area tract (as shown on each of the Plats) and the edge of the private street improvements initially constructed within Tract "A".

b. **Construction.** The construction of Dwelling Units within the Lots (including without limitation the installation of associated landscaping) shall be subject to various approval requirements of the Covenant Commission, as set forth in The Covenant and in the Design and Construction Manual adopted by the Covenant Commission with respect to residential construction.

c. **Maintenance by Lot Owners.** Each Lot owner shall maintain, repair and replace the Dwelling Unit located within such Lot, and the landscaping located within any Lot Streetscape Area located adjacent to such Lot, in accordance with the Community-Wide Standard and any and all other standards imposed from time to time pursuant to the Council Declaration, the Ranch Declaration, municipal ordinance, or other applicable law. If a Lot owner shall fail to meet its maintenance, repair or replacement obligations under this Paragraph 7(c), then the Ranch Association shall have the right to perform such maintenance, repair or replacement on behalf of such owner, to enter upon such owner's Lot to the extent reasonably necessary to do so, and to recover the costs of such maintenance, repair or replacement in accordance with Paragraph 13 below.

d. **Maintenance by the Ranch Association.**

(i) **Maintenance of Common Areas.** Following the Ranch Association's acceptance for maintenance of Common Area within the Tract (which shall not be required until after the initial construction and installation of improvements and landscaping on the relevant common area has been completed and has been inspected and approved in writing by the Ranch Association in accordance with applicable Ranch Association processes), the Ranch Association

shall maintain, repair and replace the landscaping and other improvements (excluding any encroaching Dwelling Units) located within such Common Area and within all Common Streetscape Areas, in accordance with the Community-Wide Standard and any and all other standards imposed from time to time pursuant to the Council Declaration, the Ranch Declaration, municipal ordinance, or other applicable law. The cost of such irrigation, maintenance, repair and replacement shall be collected from all of the Lot owners in equal shares through a Neighborhood Assessment. If any damage to any landscaping or other improvements that the Ranch Association is obligated to maintain pursuant to this Paragraph 7(d)(i) results from the negligence or willful misconduct or omission of a Lot owner or any tenant, invitee, agent, contractor, guest or family member of such Lot owner, then such Lot owner shall be liable to the Ranch Association for the cost incurred by the Ranch Association to repair such damage and shall pay such cost to the Ranch Association upon demand, and the Ranch Association may collect such cost from such Lot owner through a Specific Assessment.

(ii) **Maintenance of Portions of Dwelling Units.** The Neighborhood Committee may request from time to time (in accordance with Section 6.4(a) of the Ranch Declaration), that the Ranch Association engage an independent contractor (“**Independent Contractor**”) to perform some or all of the following:

a) maintenance, repair or replacement of exterior building surfaces of the Dwelling Units (including painting of such surfaces) and the non-structural components of the roofs (e.g., shingles, decking, and other surface roofing materials), excluding any window, door, or garage door, anything contained within the interior of any Dwelling Unit;

b) repair and/or replacement of the structural components of the roofs which are part of the original construction of any Dwelling Unit;

c) irrigation, maintenance, repair and replacement of landscaping located within a Lot or a Lot Streetscape Area and installed in connection with the initial construction of a Dwelling Unit on the Lot, but excluding any and all landscaping located within any enclosed, fenced, or walled yard, courtyard or patio;

d) operation, maintenance, repair, and replacement, as necessary, of any irrigation equipment installed in connection with the initial construction of a Dwelling Unit on a Lot (including, without limitation, sprinklers, pumps, water lines, and time clocks) serving the Lot, except that the Association shall have no responsibility for any sprinklers or other irrigation equipment installed by the owner or occupant of any Lot; any irrigation system installed by the owner or occupant of the Lot shall be independent of and not be connected in any way to the irrigation equipment installed as part of the initial construction of the Lot;

e) termite treatment of walls and/or foundations of a Dwelling Unit.

11/15/01

Nothing in this Paragraph 7(d), nor any action taken by the Ranch Association pursuant to this Paragraph 7(d), shall be deemed to designate any portion of a Dwelling Unit as an Area of Ranch Responsibility nor shall anything in this Paragraph 7(d) be deemed otherwise to constitute an assumption by the Ranch Association of responsibility for maintenance, repair or replacement of any portion of a Dwelling Unit, except as expressly agreed by the Ranch Association in response to a request by the Neighborhood Committee. Notwithstanding any provision of this Paragraph 7(d), the Ranch Association reserves the right and authority to refuse any request of the Neighborhood Committee that the Ranch Association undertake any such action if the Ranch Association determines that such action would be contrary to the Community-Wide Standard or contrary to the interests of the Members of the Ranch Association, notwithstanding (a) that there may exist a manifest need for such maintenance, repair or replacement, including without limitation a need to prevent imminent danger to persons or property, or (b) that the Ranch Association may have previously granted a similar request by the Neighborhood Committee. Any grant of any such request by the Ranch Association shall be limited to the particular action requested, and shall not constitute an ongoing commitment by the Ranch Association with respect to any future action of the type requested or of any other type. The Ranch Association may condition its grant of any such request upon such financial assurances, insurance coverage or contractual covenants (or any combination thereof) from the Neighborhood Committee or individual Lot owners as the Ranch Association may deem appropriate in its sole discretion, and the Neighborhood Committee is hereby authorized to represent and bind all of the owners of the Lots (or such number thereof as are determined by the Ranch Association to benefit from the requested action), on a joint and several basis, in providing such financial assurances, insurance coverage or contractual covenants (or combination thereof). Nothing in this Paragraph 7(d) shall excuse any Lot owner from any maintenance, repair or replacement obligation of such owner under the Council Declaration, the Ranch Declaration, or this Second Amended Supplemental Declaration, or limit the authority of the Ranch Association or the Community Council to enforce any such obligation.

(iii) Maintenance of Erosion Protection Walls. Declarant intends to install within the eastern portions of Lots 67, 68, 69, 70, 71 and 72, as shown on the Parcel 2.3B Plat, an erosion protection wall, commonly known as a "scour wall", in accordance with civil engineering plans approved by the City of Scottsdale. The Ranch Association shall inspect, maintain and repair such scour wall as needed to keep such scour wall in good condition and repair. Declarant hereby reserves to itself and its successors and assigns, and hereby grants to the Ranch Association and its successors and assigns, an easement over, upon and across such Lots (not including the interior of any residential dwelling) for purposes of such access as may be reasonably necessary to carry out such inspection, maintenance and repair.

(iv) Easement for Maintenance. The Ranch Association shall have a non-exclusive easement over the Lots as reasonably necessary to permit one or more Independent Contractors to perform the operation, irrigation, maintenance, repair and replacement functions contemplated under this Paragraph 7(d), which easement may be exercised by the Association or any Independent Contractor engaged by the Association, or by any of their respective officers, directors or employees or agents. Entry upon any Lot for such purpose shall not be deemed a trespass.

(v) **Costs of Maintenance.** All costs incurred by the Ranch Association pursuant to Paragraph 7(d) shall be collected either from all of the Lot owners through a Neighborhood Assessment (or through the capital contributions made pursuant to Paragraph 5(b) above), if the Ranch Association determines that the requested action benefits all of the Lot owners, or from individual Lot owners, through a Specific Assessment, if the Ranch Association determines that the requested action benefits fewer than all of the Lot owners, which determination shall be made in the sole and absolute discretion of the Ranch Association. The imposition of such Neighborhood Assessment or Specific Assessment shall not limit or prejudice in any manner the right of the Ranch Association or a Lot owner to pursue any and all available legal remedies against any Person whose acts, errors or omissions resulted in the need for such maintenance, repair or replacement.

(vi) **Limitation of Ranch Association Liability.** Notwithstanding any action by the Ranch Association to engage an Independent Contractor as permitted under Paragraph 7(d)(ii) above, each Lot owner, by taking title to a Lot, acknowledges that the Ranch Association has no duty or obligation to engage any Independent Contractor for such purposes and that any such engagement shall be undertaken solely as an accommodation to the Neighborhood Committee and the Lot owners who are intended to benefit from such engagement. Accordingly, each such Lot owner, by taking title to a Lot, hereby agrees to hold the Ranch Association harmless with respect to any liability alleged by any Person with respect to:

a) any construction defect, design defect or other defect in any Dwelling Unit or portion thereof, or for any construction defect, design defect or other defect in the common area improvements or any portion thereof (including without limitation any alleged failure by the Ranch Association or an Independent Contractor to discover any such defect or to disclose any such defect that may be discovered), it being understood and agreed that the responsibility for any and all such defects shall remain with the builder of such Dwelling Units and subdivision improvements, and that the Ranch Association shall have no obligation to correct any such defect or to take any action against the builder of the relevant improvements (or any agent, employee, contractor, subcontractor or affiliate of such builder) with respect to any such defects;

b) any acts, errors or omissions of any Independent Contractor engaged by the Ranch Association, it being understood and agreed that the Lot owners shall look solely to such Independent Contractor with respect to any and all such errors, acts and omissions and that the responsibility for any and all such acts, errors or omissions shall remain with the Independent Contractor;

c) any decision by the Ranch Association to refuse any request by the Neighborhood Committee for the engagement of an Independent Contractor; and

d) any failure by the Neighborhood Committee to determine the maintenance, repair or replacement needs of any portion of a Dwelling Unit that is described in Subparagraph 7(d)(ii)(a) through (e) above, it being understood and agreed that responsibility for such determination shall lie solely with the Neighborhood Committee and

that the Ranch Association shall have no duty or obligation to determine such needs, or to inspect or test any Dwelling Unit or any portion thereof, or to notify the Neighborhood Committee or any Lot owner of any apparent need for maintenance, repair or replacement.

8. **Insurance on Lot Improvements.** The Ranch Association shall maintain property insurance providing flood (only for so long as the Tract is located within an AO Flood Hazard Zone and only to the extent available), property insurance (“special form” coverage) at full replacement cost, less a reasonable deductible, on all insurable improvements located on the Lots (including only those improvements constructed by a Builder), which insurance shall comply with the requirements of Section 7.4(a)(i) of the Ranch Declaration (the “Property Insurance”), the cost of which shall be assessed against all of the Lots equally as a Neighborhood Expense. Except as set forth in the preceding sentence, the Ranch Association shall not be required to secure any liability coverage or other form of insurance coverage whatsoever (other than the Property Insurance); without limiting the generality of the foregoing, each Lot owner shall be responsible for obtaining and paying the cost of liability insurance for the Lot and insurance over the contents of its Dwelling Unit. The Ranch Association may, in its discretion, request that the Neighborhood Committee review any proposed insurance application or proposed policy or coverage regarding the Property Insurance and that the Neighborhood Committee provide its reasonable comments on such proposed insurance application or proposed policy or coverage within a reasonable period of time not to exceed thirty (30) days. If the Neighborhood Committee fails to provide comments on such proposed insurance application or proposed policy or coverage, within such time period, then the Neighborhood Committee shall be deemed to have approved of the proposed insurance application or proposed policy or coverage without adverse comment. In addition, the Neighborhood Committee may periodically review the Property Insurance needs of the improvements within the Tract and communicate such needs to the Ranch Association for review. Each Lot owner, by taking title to a Lot, acknowledges that the Ranch Association is not responsible for guaranteeing that an insurer pays any particular claim and that the Ranch Association has no duty or obligation with respect to claims insured in accordance with this paragraph, other than to act in good faith with respect to such claims. The Ranch Association may include in the Neighborhood Assessments from the Lot owners such amounts as it may deem required to establish and maintain a reasonable reserve for the payment of Property Insurance premiums and for twice the amount of the deductible under the Property Insurance policy(ies).

9. **Boundary Walls and Common Yard Walls.** For purposes of this Second Amended Supplemental Declaration, the term “Boundary Wall” shall mean a landscape wall constructed on, or immediately adjacent to, the common boundary of an Area of Common Responsibility and a Lot, and the term “Common Yard Wall” shall mean a landscape wall 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 Boundary Walls and Common Yard Walls shall be as follows:

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

10/20/2021 10:00:00 AM

that such use by one such party does not interfere with the use and enjoyment of such Common Yard Wall by the other;

(ii) If any Boundary Wall or Common Yard Wall is damaged or destroyed through the act of an adjacent Lot owner or any of such owner's tenants, invitees, agents, contractors, 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 Boundary Wall or Common Yard Wall without cost to the Ranch Association or the other Lot owner (as applicable) provided that any liability imposed on a Lot owner hereunder shall not limit or prejudice the right of the Lot owner to pursue any available legal remedies against the person(s) causing such damage or destruction;

(iii) If any Boundary Wall or Common Yard 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, contractors, guests or family members, it shall be the joint obligation of the Lot owner and the Ranch Association (in the case of a Boundary Wall), or the two Lot owners (in the case of a Common Yard Wall), 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 a Boundary Wall or Common Yard 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;

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

(v) Anything in the foregoing to the contrary notwithstanding, the Ranch Association shall have no responsibility for the maintenance, repair or replacement of any Boundary Wall pursuant to this Paragraph 9 until it has inspected and approved the construction of such Boundary Wall and accepted in writing maintenance responsibility (to the extent provided herein) for such Boundary Wall, in accordance with applicable Ranch Association processes;

(vi) 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

(vii) The right of any Lot owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

10. **Party Walls.** With respect to any Party Wall (as defined below), the owners of the relevant adjoining Dwelling Units shall have the rights and obligations set forth in this Paragraph 10

(and the Ranch Association shall have no responsibility whatsoever for maintenance, repair or replacement of any portion of any Party Wall). To the extent not inconsistent with the provisions of this Paragraph 10, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Party Walls. Any dispute concerning a Party Wall shall be handled in accordance with the provisions of Article XIII of the Ranch Declaration.

a. If any Party Wall is damaged or destroyed through the act of the owner of an adjoining Dwelling Unit, or any of such owner's tenants, invitees, agents, contractors, guests or family members (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Dwelling Unit owner to rebuild and repair the Party Wall without cost to the other Dwelling Unit owner; provided that any liability imposed on a Dwelling Unit owner hereunder shall not limit or prejudice the right of the Dwelling Unit owner to pursue any available legal remedies against the person(s) causing such damage or destruction.

b. If any Party Wall is destroyed or damaged (including by deterioration from ordinary wear and tear), other than by the act of the owner of an adjoining Dwelling Unit or any of such owner's tenants, invitees, agents, contractors, guests or family members, it shall be the joint obligation of the owners of both adjoining Dwelling Units to rebuild and repair such Party Wall to its pre-existing condition at their joint expense, such expense to be divided equally between them (and, in event that one such owner fails or refuses so to act, the other owner may undertake the rebuilding or repair of such Party Wall to its pre-existing condition, and thereupon shall have the right to obtain contribution from the owner who failed or refused to act in the amount of one-half of the cost of such rebuilding or repair); provided, however, that if such damage or destruction is limited to the surface of a Party Wall, then the obligation to repair such damage or destruction shall be the sole responsibility of the owner of the adjoining Dwelling Unit toward which such surface faces, at such owner's sole expense; and provided that utilities, conduit, facilities and appurtenances to the Party Wall serving only one Dwelling Unit shall be maintained and repaired solely at the cost of the owner whose Dwelling Unit is served thereby.

c. Notwithstanding anything to the contrary herein contained, there shall be no modification or impairment of the structural integrity of any Party Wall without the prior written consent of the owners of the adjoining Dwelling Units and of the Covenant Commission.

d. The right of any Dwelling Unit owner to contribution from any other Dwelling Unit owner under this section shall be appurtenant to the land and shall pass to such owner's successors in title.

e. For purposes of this Second Amended Supplemental Declaration, the term "**Party Wall**" means a wall that separates the interior of one Dwelling Unit from the interior of another Dwelling Unit and that lies on or about the common Lot boundary between such two Dwelling Units.

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

10/20/2006 10:00:00 AM

other related facilities, within the areas designated on the Parcel 2.3 Plat as Tracts "A" through "N", inclusive, and on the Parcel 2.3B Plat as Tracts "A" through "F", inclusive, 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 Design and Construction Manual, 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. **Restrictions on Parking.** In addition to the parking restrictions set forth in the Ranch Declaration, all motor vehicles within the Tract shall be parked either in an enclosed garage or in a designated off-street parking space. The parking of any motor vehicle by any Lot Owner or by the occupants of a Dwelling Unit or their guests or invitees in any street or driveway is prohibited.

13. **Enforcement.** The Ranch Association may recover from any Lot owner who fails to repair, maintain or replace its Dwelling Unit, Lot, or any Lot Streetscape Area or Boundary Wall, or any portion thereof, as required by Paragraph 7 or 9 above, any and all costs incurred by the Ranch Association in performing such repair or maintenance on the owner's behalf pursuant to Paragraph 7 or 9, as applicable. In addition, without limiting any other rights or remedies available to the Ranch Association, the Ranch Association may impose a Specific Assessment under the Ranch 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.

14. **Adjacent Land Use.** Declarant hereby gives notice that the Tract is located adjacent to and east of real property that is currently planned for development for municipal uses (including a fire and police station) and a mixed-use private development (including multi-story office buildings, grocery store, specialty retail and restaurant uses) which is expected to include lighted parking facilities, buildings with exterior lighting, exterior loading areas, refuse containers and other features commonly associated with such development, and may include one or more above-ground multi-story parking garages. Declarant hereby gives notice that the Tract is located south of a parcel of real property that is currently planned for development as an apartment complex and another parcel of real property that is currently planned for development as a gas station and convenience market. Each Lot owner, by taking title to a Lot acknowledges that Declarant makes no warranties or representations whatsoever that any land now owned or hereafter acquired by Declarant is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, that such use will continue in effect, and that Declarant reserves the right to change the uses, densities and zoning of any property in the Development which Declarant owns without the consent of any Lot owner.

15. **Interpretation.** This Second 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.

1000000000

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 Second Amended Supplemental Declaration, the terms of the Council Declaration or the Ranch Declaration, as applicable, shall control.

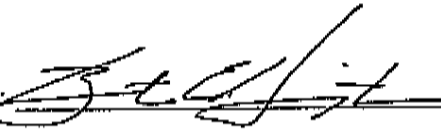
17. **Amendment.** This Second Amended Supplemental Declaration may be amended in the same manner as the Ranch Declaration may be amended in accordance with the provisions of the Ranch Declaration.

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

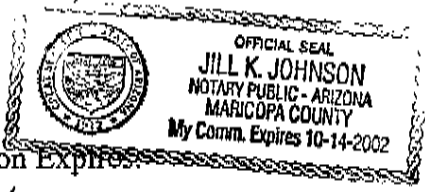
By: DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, Administrative Member

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

By: 
Its: VP

STATE OF ARIZONA)
) ss.
 County of Maricopa)

The foregoing instrument was acknowledged before me this 26th day of September, 2002, by Brent Herrington 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.



Jill Johnson
 Notary Public

My Commission Expires
10-14-2002

00000000

**CONSENT TO AND JOINDER IN
SECOND AMENDED SUPPLEMENTAL DECLARATION**

As evidenced by its signature below, DC Ranch Association, Inc., an Arizona non-profit corporation, consents to and joins in the foregoing Second Amended Supplemental Declaration.

DC RANCH ASSOCIATION, INC., an Arizona non-profit corporation

By: *[Signature]*
Its: V.P.

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 26th day of September, 2002, by *[Signature]*, the *Vice President* of DC RANCH ASSOCIATION, INC., an Arizona non-profit corporation, for and on behalf thereof.



[Signature]
Notary Public

My Commission Expires:
10-14-2002

Exhibit "A"

Legal Description

Lots 1 through 66, inclusive, and Tracts "A" through "O", inclusive, of DC RANCH PARCEL 2.3 AMENDED, a subdivision according to the plat recorded in Book 521 of Maps, Page 3, records of Maricopa County, Arizona;

AND

Lots 67 through 75, inclusive, and Tracts "A" through "F", inclusive, of DC RANCH PARCEL 2.3B, a subdivision according to the plat recorded in Book 607 of Maps, Page 5, records of Maricopa County, Arizona.