

LAWYERS TITLE OF ARIZONA, INC.

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**SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DC RANCH PARCEL 5.9b&c
AND SUPPLEMENT TO THE COVENANT**

This Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 5.9b&c and Supplement to The Covenant ("**Supplemental Declaration**") is made effective this 17th day of November, 2004, 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 (the "**City**"), 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. Declarant executed The Covenant at DC Ranch and recorded said document in the official records of Maricopa County, Arizona on December 13, 1996, as Document No. 96-0868789, and re-recorded said document on May 5, 1997, as Document No. 97-0298843, and amended said document pursuant to the First Amendment to The Covenant at DC Ranch, recorded on July 16, 1999 as Document No. 99-0673266 (as amended, the "**Covenant**"); and

E. 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

F. The Covenant contemplates that additional land may be made subject to The Covenant in any manner, including by recordation of a Supplement to the Covenant; and

G. Declarant wishes to cause that portion of the Development described on Exhibit "A" attached hereto (the "**Tract**") to become subject to the Council Declaration, the Ranch

Declaration and The Covenant, 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 15.2 of the Council Declaration, Section 9.1 of the Ranch Declaration and Section 2.1 of The Covenant, Declarant hereby declares that the Tract is and shall be subject to the terms and provisions of the Council Declaration, the Ranch Declaration and The Covenant, respectively.
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 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 promptly after the completion of all applicable construction and sale activity.
3. **Calculation of Units.** The Tract has been subdivided into thirty-seven (37) residential lots (collectively, the "Lots", and each, individually, a "Lot") pursuant to the subdivision plat for the Tract recorded of even date herewith 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 thirty-seven (37) Units in the Tract. If Declarant duly amends the Plat, such that the number of Lots in the Tract is greater or less than thirty-seven (37), 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 Lots within the Tract.
4. **Neighborhoods.**
 - a. **Neighborhood Assessments for Planning Unit V.** The Lots, together with certain other property within the Development located east 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 (referred to in this instrument as the "**Planning Unit V Neighborhood**"), and will be subject to one or more Neighborhood Assessments levied by the Ranch Association with respect to certain relevant Neighborhood Expenses, including without limitation expenses associated with some or all of the private streets within the Planning Unit V Neighborhood, guardhouses located on Horseshoe Canyon Drive, and some or all of the open space areas, parks and other recreational facilities located within the Planning Unit V Neighborhood. The amount of the foregoing levy will be established by the Ranch Association in accordance with the terms of the Ranch Declaration.

b. **Neighborhood Assessments for Parcel 5.9b&c.** The Lots may be designated by the Ranch Association as a separate Neighborhood (referred to in this instrument as the "Parcel 5.9b&c Neighborhood"), and may be subject to one or more separate Neighborhood Assessments levied by the Ranch Association with respect to certain relevant Neighborhood Expenses. The amount of the foregoing levy will be established by the Ranch Association in accordance with the terms of the Ranch Declaration.

c. **Voting Neighborhood.** Notwithstanding any designation of the Tract as the Parcel 5.9b&c Neighborhood or as a portion of the Planning Unit V Neighborhood, for purposes of allocating Neighborhood Assessments as set forth in Paragraphs 4(a) and 4(b) above, 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.

5. **Commencement of Assessments.** Without limiting the provisions of Paragraph 4 above, 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 earlier to occur of the following dates: (a) March 31, 2006, and (b) the date on which Buyer consummates the sale of the first Lot to a third party with a completed residence on such Lot.

6. **Construction Requirements; Lot Coverage.** The construction of, and all modifications to, any and all improvements within the Lots (including landscaping) 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 all other rules, regulations, and design standards and guidelines adopted by the Covenant Commission with respect to the Tract from time to time. Such approval requirements include that buildings (defined as areas under roof) may cover up to a maximum of seven thousand twenty (7,020) square feet of the Lot. Each Lot owner shall be responsible for maintenance of all improvements, landscaping and natural open space areas (if any) within the Lot in accordance with the Community-Wide Standard applicable to the Development, all other requirements of the Governing Documents, and all other standards imposed by law; 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.

7. **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 common area tract

(as applicable) in accordance with the Community-Wide Standard applicable to the Development, all other requirements of the Governing Documents, and all other standards imposed by applicable law. The determination as to which Lot or common area tract is adjacent to a particular Streetscape Area shall be made by reference to the prolongation of the relevant Lot boundaries and/or common area tract boundaries. If a Lot owner shall fail to meet its maintenance obligations under this Paragraph 7, 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.

8. **Revegetation.** Declarant reserves to itself and its successors 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 III, V & VI, approved by the City 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.

9. **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.

10. **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 6 or 7 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 6 or 7 above. 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 6 or 7 above, 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 10 shall be levied pursuant to the Ranch Declaration).

11. **Adjacent Land Use.** Declarant hereby gives notice that the Tract is located adjacent to (a) currently vacant parcels intended for residential development, to the north, northeast and west, (b) a vacant parcel to the west that may consist of retail, commercial, restaurant and/or office uses, (c) a privately owned and operated golf course and associated club facilities, including parking facilities serving the golf course, and the Silverleaf Clubhouse, all located to the east of the Tract (portions of which are under construction as of the recording of this instrument), (d) the proposed public trails and paths (pedestrian and equestrian) within the Desert Park located west of the Tract, public restrooms and related amenities serving such public paths and trails, turf areas, public art, and any other facilities constructed or installed in such area, (e) the existing K-8 elementary school (including lighted ball fields) located northwest of the Tract, (f) a proposed City tennis facility, located northwest of the Tract and north of said K-8 elementary school, (g) a possible high school to be located northwest of the Tract, and (h) property that is outside of the Development and is currently zoned for residential, to the south (though Declarant disclaims any knowledge about the intended future development of such parcel). 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.

12. **Airport.** Each Lot owner, by taking title to a Lot, acknowledges (for such Lot owner and such Lot owner's family members, other occupants, successors and assigns) that: (a) the Tract is in close proximity to the Scottsdale Airport flight path and is located within 4 miles of the Scottsdale Airport (the "Airport"), which is currently located generally between Frank Lloyd Wright Boulevard on the north, Pima Road on the east, Thunderbird Road on the south and Scottsdale Road on the west; (b) as of the date hereof, the Airport is operated as a general aviation reliever/commercial service airport for Scottsdale and North Phoenix, used generally for single engine and twin engine airplanes, corporate jets, helicopters and scheduled service turbo prop and jet aircraft (including military aircraft from time to time); (c) aircraft taking off from and landing at the Airport may fly over the Tract and adjacent properties at altitudes which will vary with meteorological conditions, aircraft type, aircraft performance and pilot proficiency; (d) at the date hereof, the majority of aircraft takeoffs and landings occur daily between 6:00 a.m. and 11:00 p.m., but the Airport is open twenty-four (24) hours each day, so takeoffs and landings may occur at any hour of the day or night; (e) at the date hereof, the number of takeoffs and landings at the Airport average approximately 850 each day, but that number will vary and may increase with time if the number of its operations increases; (f) flights over the Tract or adjacent properties by aircraft taking off from or landing at the Airport may generate noise, the volume, pitch, amount and frequency of occurrence of which will vary depending on a number of factors, including without limitation the altitudes at which the aircraft fly, wind direction and other meteorological conditions and aircraft number and type, and may be affected by future changes in Airport activity; (g) as of the date hereof, management of the Airport has policies in place intended to help reduce or minimize aircraft noise and its influence on owners and occupants of properties in the vicinity of the Airport, but those policies may change over time and in addition

other aspects of such policies (including, without limitation, those intended to promote safety) may be given preference over policies relating to limiting noise; and (h) such Lot owner (for such Lot owner and such Lot owner's family members, other occupants, successors and assigns) hereby accepts and assumes any and all risks, burdens and inconvenience caused by or associated with the Airport and its operations (including, without limitation, noise caused by or associated with aircraft flying over the subdivision, tract and adjacent properties), and agrees not to assert or make and hereby waives and releases any claim relating to or arising out of any of the foregoing against (i) the City, its officials, directors, commissioners, representatives, agents, servants and employees, (ii) DC Ranch Association, Inc. or DC Ranch Community Council, Inc., (iii) DC Ranch L.L.C., its direct and indirect owners, (iv) The Casitas at Silverleaf LLC, an Arizona limited liability company, (v) CSE Residential Projects, Inc., an Arizona corporation, (vi) CSE & Associates, Inc., an Arizona corporation, (vii) DC Golf Casitas, LLC, an Arizona limited liability company, their respective directors, officers, partners, agents, employees, managers, trustees, and any successors or assigns of any of the foregoing.

13. **Turf Areas**. Declarant hereby reserves to the Ranch Association an easement over, upon and across those portions of Lots 27, 28, and 33 through 37, inclusive (as shown on the Plat), which are shown to be landscaped with turf on the Silverleaf Parcels 5.9b&c Landscape Plan, prepared by Greey/Pickett, City Plan Check # 2622-03, as approved by the City (collectively, "Turf Areas"), for the purpose of installing, maintaining, repairing and replacing turf and related irrigation facilities located within such Turf Areas (such Lots being numbered as 15, 16, and 21 through 25, inclusive, on such Landscape Plan). If, in connection with any Lot owner's construction of a residential dwelling on any of Lots 27, 28, and 33 through 37, inclusive (as shown on the Plat), the Lot owner installs a perimeter wall in a location that has been approved by the Covenant Commission and that encroaches onto a Turf Area, then the boundary of the foregoing easement shall automatically be deemed adjusted to meet the "as-built" location of the perimeter wall.

14. **Easement for Water Run-Off**. Declarant hereby establishes an easement over all areas that are within five feet (5') of the boundary of each Lot, over which storm water or other water may drain from the surface of each the adjacent Lot or adjacent common area tract where such drainage consists of water flow according to intent of the final civil plans for the Tract prepared by Declarant and approved by the City. No Lot owner shall be permitted to install or construct anything on its Lot that constitutes an obstruction of such storm or other water drainage, other than initial improvements installed by the builder of the residence on the Lot or as otherwise expressly approved by the Covenant Commission.

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

16. **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., an Arizona corporation, its General Partner

By: [Signature]

Its: NP

STATE OF ARIZONA)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 17th day of November, 2004, by Brent Harrington, 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.



[Signature]
Notary Public

My Commission Expires:
Sept. 7, 2007

Exhibit "A"

Legal Description

Lots 1 through 37, inclusive, and Tracts "A" and "B", of DC RANCH PARCEL 5.9b&c,
a subdivision according to the plat recorded in
Book 705 of Maps, Page 13, records of Maricopa County, Arizona.