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**SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DC RANCH CANYON 5
AND SUPPLEMENT TO THE COVENANT
AND AIRPORT NOTIFICATION**

This Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Canyon 5 and Supplement to The Covenant, and Airport Notification ("**Supplemental Declaration**") is made effective this 16th day of March, 2005, by DC RANCH L.L.C., an Arizona limited liability company ("**Declarant**").

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

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

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

D. 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 twenty-four (24) 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 twenty-four (24) Units in the Tract. If Declarant duly amends the Plat, such that the number of Lots in the Tract is greater or less than twenty-four (24) 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, and Units attributable to, 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 Canyon 5. The Lots may be designated by the Ranch Association as a separate Neighborhood (referred to in this instrument as the “**Canyon 5 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 Canyon 5 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.

d. Golf Neighborhood. The Tract is hereby designated as a “Golf Neighborhood” for purposes of Section 11.8 of the Ranch Declaration.

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 date of the recording of this Supplemental Declaration in the official records of Maricopa County, Arizona.

6. Building Envelopes. The construction of single-family dwellings within the Lots shall be subject to various approval requirements of the Covenant Commission, as set forth in The Covenant and in the Community Design Book and Design and Construction Manual adopted by the Covenant Commission with respect to residential construction. Such requirements include, among other things, the requirement that any construction plans submitted to the Covenant Commission include a depiction of a construction envelope on the Lot, the location and dimensions of which shall be subject to Covenant Commission review and approval. All construction activities on the Lot shall conform to the requirements pertaining to such construction envelopes set forth in the construction guidelines adopted by the Covenant Commission. Approval by the Covenant Commission of construction plans for any such Lot shall include the requirement that the owner of the Lot grant to the Covenant Commission an easement for preservation of natural open space (using a form to be provided by the Covenant Commission) over all areas within the Lot and outside of such construction envelope. No construction of any improvements shall be permitted in any such areas. The Lot owner shall be responsible for maintenance of all improvements, landscaping and natural

open space areas within the Lot in accordance with the Community-Wide Standard applicable to the Development, all other requirements of the Governing Documents, and all other standards imposed by applicable 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.

7. **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 6 above, any and all other applicable private governance standards, and the standards imposed by law.

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 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 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. **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 and VI, approved by the City of Scottsdale in Zoning Case No. 54-ZN-89#2, (b) for purposes of installing, constructing, maintaining, replacing and repairing such irrigation controllers, backflow prevention devices, water lines, irrigation lines and other facilities, as needed in connection with such revegetation, and (c) to maintain all revegetated plants, to the extent, if any, Declarant deems such maintenance appropriate in connection with such revegetation.

10. **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.

11. **Petroglyphs.** Declarant discloses that petroglyphs have been found at archeological sites located within the Tract. Two types of petroglyphs have been found: (a) petroglyph boulders, which are small to medium sized individual boulders, many of which are transportable ("**Petroglyph Boulders**") and (b) petroglyph panels, which are multiple images pecked into larger bedrock outcrops and are permanent features of the natural landscape which cannot be moved or built upon ("**Petroglyph Panels**"). Petroglyph Boulders and Petroglyph Panels are collectively referred to herein as "**Petroglyphs**". It is the opinion of Declarant that the presence of Petroglyphs within the Tract, as important and unique prehistoric features on the desert landscape, should be viewed as an asset to the Lots and not a detriment. It is the desire of Declarant to preserve and protect the Petroglyphs for the benefit of the Lots, individually, and the Development, as a whole. Accordingly, Petroglyphs shall not be removed from or relocated within any Lot except in accordance with Declarant's Petroglyph Preservation Plan, the terms and conditions of which are hereby incorporated herein by this reference. A copy of Declarant's Petroglyph Preservation Plan is on file with, and may be obtained from, Declarant or the Community Council.

12. **Conservation Area.** All areas designated on the Plat as "Conservation Area" or "CA" must be preserved by the owner of the subject Lot as natural open space upon which no improvement, including landscaping, may be constructed or installed, except for (i) landscape revegetation improvements (and water irrigation systems as may be necessary in connection with revegetation of such areas), subject in each case to applicable City of Scottsdale review processes, and (ii) such fencing as may be constructed by Declarant or its designee within the Conservation Area and along the boundary between the Conservation Area and the adjacent Conservation Open Space area. Declarant hereby reserves for itself and its designee an easement over, upon and across all areas shown on the Plat as "Conservation Area" or "CA" for purposes of installing, maintaining, repairing and replacing such fencing, and for such access as may reasonably be required in connection with such installation, maintenance, repair and replacement.

13. **Retaining Walls.** Declarant reserves to itself and its successors and assigns, and grants to the Ranch Association and its successors and assigns, an easement over, upon and across those portions of the Lots as may be necessary for purposes of installing, constructing, maintaining, replacing and repairing any retaining walls which have been or will be installed by Declarant on the Lots pursuant to subdivision plans for the Tract approved by the City of Scottsdale.

14. **Enforcement.** The Community Council may recover from any Lot owner who fails to maintain its Lot or any portion thereof or any adjacent Streetscape Area, or to preserve any Conservation Area, as required by any of Paragraphs 6, 7, 8 or 11 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, 7, 8 or 11 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, 7, 8 or 11 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 14 shall be levied pursuant to the Ranch Declaration).

15. **Adjacent Land Use.** Declarant hereby gives notice that the Tract is located adjacent to (a) a currently vacant parcel intended for residential development to the west, (b) a privately owned and operated golf course and associated club facilities, including parking facilities serving the golf courses, a driving range and the Silverleaf Clubhouse, all located to the west (portions of which are under construction as of the recording of this instrument), and (c) the McDowell Sonoran Preserve, including a series of public trails, to the east, north and south. 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.

16. **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 6.5 miles or less from 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 of Scottsdale, 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, their respective directors, officers, partners, agents, employees, managers, trustees, and any successors or assigns of any of the foregoing.

17. **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.

18. **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.

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

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

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

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

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

By: *Nickolas Taratsas*
Its: VP

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 2nd day of March, 2005, by NICKOLAS TARATSAS, 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.

Vanessa Muir
Notary Public

My Commission Expires: _____

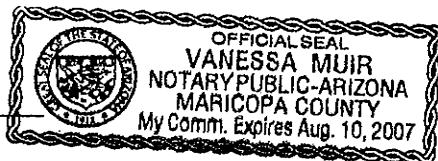


Exhibit "A"

Legal Description

Lots 2401 through 2424, inclusive, and Tracts "A" through "D", inclusive, of DC RANCH UPPER CANYON 5, a subdivision according to the plat recorded in Book 135 of Maps, Page 19, records of Maricopa County, Arizona.