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H/B

**SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VERRADO PARCEL 3.410**

This Supplemental Declaration of Covenants, Conditions and Restrictions for Verrado Parcel 3.410 ("**Supplemental Declaration**") is made effective this 27th day of July, 2005, by DMB WHITE TANK, LLC, an Arizona limited liability company ("**Founder**"), and FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation, acting not in its corporate capacity but solely as Trustee under its Trust No. B176 ("**Trustee**").

A. Founder is the developer of the master planned community located in the Town of Buckeye (the "**Town**"), Maricopa County, Arizona, commonly known as Verrado® ("**Verrado**"); and

B. Founder executed the Covenant for Community for Verrado and caused said document to be recorded in the official records of Maricopa County, Arizona, as Document No. 2003-0531387 (the "**Covenant**"); and

C. Founder also executed the Community Charter for Verrado and caused said document to be recorded in the official records of Maricopa County, Arizona, as Document No. 2002-1008906, as amended by the First Amendment thereto recorded in the official records of Maricopa County, Arizona, as Document No. 2004-0015591 (as amended, the "**Charter**"). Each capitalized term used but not defined herein shall have the meaning for such term set forth in the Charter; and

D. The Charter contemplates that Supplements for parcels located within the portion of Verrado referenced in the Charter as the Village will be executed and recorded periodically as the development of the Village proceeds; and

E. Trustee is the owner of that portion of the Village described on Exhibit "A" attached hereto (the "**Parcel**"); and

F. Founder, with the consent of Trustee, wishes to cause the Parcel, which Parcel already is subject to the Covenant, to become subject to the Charter as well, and to be developed in accordance with certain supplemental covenants, conditions and restrictions as set forth herein.

NOW, THEREFORE, Founder, with the consent of Trustee, hereby declares that the Parcel shall be held, sold and conveyed subject to the following restrictions, covenants, conditions, easements, terms and provisions, which shall apply to the Parcel and all Units within

the Parcel in addition to the provisions of the Covenant and the Charter. This Supplemental Declaration shall be a Supplement for purposes of the Charter.

1. **Annexation** Pursuant to Section 17.1 of the Charter, Founder hereby declares that the Parcel is annexed and submitted and hereafter shall be subject to the terms and provisions of the Charter. Trustee hereby consents and agrees to the foregoing annexation.

2. **Designation of Builder**. Founder hereby confirms that Ashton Woods Arizona L.L.C., a Nevada limited liability company, is purchasing one or more unimproved Units within the Parcel for further development and resale in the ordinary course of its business, and thus shall be deemed a "Builder" under the Charter with respect to the Units it owns in the Parcel.

3. **Membership**. Each Owner of a Unit shall be a member of the Association as provided in Section 4.1 of the Charter.

4. **Construction Requirements**. The construction of Improvements (as defined in Section 5.1 of the Charter) within any Unit shall be subject to various approval requirements of the Reviewer, as set forth in the Charter and in the Design Guidelines adopted by the Founder. Accordingly, prior to undertaking any activities with respect to any proposed Improvements, the Owner of a Unit may be required to submit a Completed Application (as defined in Section 5.3(b) of the Charter) and to obtain certain approvals as set forth in the Charter and the Design Guidelines. Construction of all approved work must commence and thereafter be completed within the applicable time frames set forth in the Charter.

5. **Technology**.

(a) **Pre-Wiring Requirements**. By its acceptance of a deed with respect to any Unit, each Builder is hereby deemed to acknowledge and agree that such Builder shall (a) satisfy the requirements of the Founder's structured wiring specifications for installation of inside wiring, outlets and trim in each dwelling to be constructed on any Unit within the Parcel and (b) install the material referenced therein in accordance therewith in each such dwelling, at the sole cost and expense of Builder, Builder acknowledging that Founder expressly retains the right to assign to any third party that provides technology services (including telephony, data transmission, cable television and similar services) to such dwelling the right to specifically enforce the foregoing without any right of offset or defense thereto.

(b) **Incorporation into Design Plans**. Builder shall incorporate into the design and construction of any and all joint trenches located outside the public utility easements, from the connection point to the dwelling constructed within the boundaries of the Units consistent with the applicable plans and specifications therefore (including, if applicable, the final subdivision improvement plans), at the cost and expense of Builder, such distribution system design and/or specifications in order to permit the installation of the applicable technology facilities and, upon the construction of such joint utility trenches, Builder shall accommodate and permit the installation of technology facilities therein.

(c) **Appointment of Representative**. Builder shall appoint a representative with appropriate responsibility and authority (the "On-Site Representative") to act as a single point of contact for coordination and cooperative implementation of the procedures for resolving

day-to-day construction issues. The On-Site Representative shall work closely with any third party who provides technology services (including telephony, data transmission, cable television and similar services), and in coordination with such entity, for the placement of facilities, including pedestals, transformers, wiring, power supplies, etc., in the Parcel.

(d) **Required Notices.** Builder shall provide to any third party who provides technology services (including telephony, data transmission, cable television and similar services) not less than sixty (60) days prior written notice of the expected certificate of occupancy date for each dwelling constructed within the boundaries of the Units and not less than fourteen (14) business days written notice of the expected move-in date of the initial resident of each dwelling constructed within the boundaries of the Units.

(e) **Right to Assign.** Founder shall have the right to assign to any third party who provides technology services (including telephony, data transmission, cable television and similar services) to such dwelling the right to specifically enforce the foregoing provisions without any right of offset or defense thereto.

6. **Installation of Landscaping.** Unless a written variance is obtained from the Reviewer, prior to the conveyance of fee title to the Unit to a buyer of a dwelling unit constructed thereon, each Builder that owns a Unit shall be required at its sole cost and expense to complete the landscaping (including all related irrigation systems) of the front yard, side yard and all other landscape areas visible from any streets adjoining its Unit. All landscaping shall be installed in a manner consistent with the Community-Wide Standard and the Design Guidelines. Founder and Trustee hereby declare that all Units shall be subject to an easement as provided in Section 13.5 of the Charter in favor of the Association to enter upon the Unit, if it chooses to do so in accordance with the terms of the Charter, to cause to be installed at the expense of the Owner of the Unit, such landscaping improvements as the Association, in its sole and absolute discretion, may determine are not being properly installed by the Builder of the Unit. Each Owner understands and acknowledges that it is subject to a potential fine in such amount as may be established by the Board, to be imposed by, and payable to, the Association for any violation of the provisions of this Paragraph 6. Any such fine shall be considered a Specific Assessment levied pursuant to Section 12.4 of the Covenant.

7. **Maintenance Requirements.**

(a) **Units.** Each Owner shall be responsible at its sole cost and expense for maintenance of all Improvements, including, without limitation, landscaping and natural open space areas within its Unit in accordance with the Community-Wide Standard applicable to the Village and all other requirements of the Governing Documents. Such maintenance responsibility specifically includes, but is not limited to, all landscaping and other improvements (including all related irrigation systems) located in the area on such Unit that is between any perimeter wall or fence installed on such Unit and the common boundary of any other Unit or tract. Founder hereby gives notice that all landscaping and other Improvements located on a Unit in the area between the perimeter wall or fence of any Unit and the common boundary of any other Unit or tract shall not be deemed an Area of Common Responsibility.

(b) **Areas of Common Responsibility.** The Association shall maintain all Areas of Common Responsibility of the Parcel in accordance with the Community-Wide Standard applicable to the Village and all other requirements of the Governing Documents. By its execution hereof, the Association acknowledges the foregoing and agrees to assume responsibility for maintenance of all Areas of Common Responsibility following completion of all required improvements and landscaping thereon.

(c) **Party Walls Adjacent to Common Area.** Notwithstanding the foregoing provisions of this Paragraph 7, the Association shall be responsible for the maintenance of any party fences or party walls between any Common Areas or Areas of Common Responsibility and any Unit, subject to the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions, except that each Owner of a Unit shall be responsible for painting the portion of any such party fence or party wall facing his Unit or the portion thereof which is not a portion of the Common Area or Area of Common Responsibility, and each Owner shall be responsible for any repairs, replacements and maintenance resulting from the improper or defective construction of such party fence or party wall constructed by the Owner or a Builder.

(d) **Maintenance Easement.** Founder and Trustee hereby declare that all Units shall be subject to an easement as provided in Section 13.5 of the Charter in favor of the Association to enter upon the Unit to cause to be performed, if it chooses to do so in accordance with the terms of the Charter, at the expense of the Owner of the Unit, any maintenance of such area as the Association, in its sole and absolute discretion, may determine is not being properly performed by the Owner of the Unit.

8. **Trash Receptacles.** No garbage or trash shall be placed or kept on any Unit, except in covered containers of a type, size and style that are approved in writing by Founder or the Design Review Committee, as applicable.

9. **Model Home Usage and Restrictions.** Without the prior written consent of Founder, no Unit within the Parcel may be utilized as a model home prior to the date that the Founder causes the model complex in Parcel 4.601 of the Village to be closed for general use as such.

10. **Neighborhood Designation.** Founder hereby declares that the Units within the Parcel are designated as being within, and are hereby assigned to, Neighborhood One for purposes of representative voting. Founder hereby reserves the right to re-designate or change Neighborhood boundaries, all as further set forth and described in the Charter, and nothing in this Supplemental Declaration shall be deemed to limit the rights and powers of the Founder with respect thereto.

11. **Reservation Regarding Election District Designation.** Founder hereby reserves the right to designate Election Districts for purposes of electing directors to the Board, and to assign the Units within the Parcel to a particular Election District, all as further set forth and described in the Charter, and nothing in this Supplemental Declaration shall be deemed to limit the rights and powers of the Founder with respect thereto.

12. **Commencement of Assessments.** The Units within the Parcel are subject to all assessments duly imposed pursuant to the Covenant and the Charter. The obligation to pay assessments under the Covenant and the Charter shall commence as to all Units effective as of the recording of this Supplemental Declaration in the official records of Maricopa County, Arizona. Assessments shall be paid in such manner and at such times as provided in the Covenant and Charter. As provided in the Covenant, the Association is responsible for collecting and paying to the Assembly all assessments, fees, or other charges levied by the Assembly against members of the Association, which sums shall be included as an item of Common Expense of the Association.

13. **Notice Regarding Assessments.** Founder hereby gives notice that, in addition to all other assessments under the Covenant and Charter, all Units within the Parcel are subject to a Community Enhancement Fee and Telecommunity Fee (as such terms are defined in Sections 2.3(f) and 6.4 of the Covenant) to be levied by the Assembly and collected by the Association as provided in the Covenant.

14. **Notice Regarding View Impairment.** Founder hereby gives notice that Sections 14.3 and 15.4 of the Charter expressly provide that no guarantee or representation is made that any view over and across the Units, any open space within Verrado, or any golf course or other Private Amenity (as defined in the Charter), or over and across the Private Amenity from Units adjacent to the Private Amenity, will be preserved without impairment, and that any express or implied easements for view purposes or for the passage of light and air are expressly disclaimed as provided in the Charter. Founder has no obligation and is under no legal duty to take any measures or intervene in any manner whatsoever on behalf of any Owner, resident or other Person with respect to the preservation, diminishment, obstruction or impairment of any view.

15. **Enforcement.** The Association may recover from any Owner who fails to landscape, repair or maintain its Unit or any portion thereof as required by Paragraphs 6 and 7 above, any and all costs incurred by the Association in performing such landscaping, repair or maintenance on behalf of such Owner pursuant to Paragraphs 6 and 7 above. In addition, without limiting any other rights or remedies available to the Association, the Association may impose a Specific Assessment under the Charter against the applicable Owner's Unit in the amount of such costs, which assessment shall be immediately due and payable upon delivery of notice of such assessment to the applicable Owner.

16. **Mailbox Easement.** Founder and Trustee hereby expressly reserve for themselves, together with the right to transfer and assign the same, a perpetual easement (each a "Mailbox Easement") over, upon, across and under that portion of each Unit that is encumbered with a public utility easement as reflected on the final plat for the Parcel identified on Exhibit "A" attached hereto (the "Plat"), any map of dedication or other instrument recorded in the official records of Maricopa County, Arizona, to enter such portion of the Unit and to install, use, maintain, repair, replace and operate one or more community postal boxes to serve the Owners of all Units within the Parcel as Founder, Trustee or their assignee, may from time to time deem necessary or desirable and as may be approved by the Town from time to time; provided and only to the extent that such use is not inconsistent with, and does not unreasonably interfere with, the use of such areas for public utility purposes in accordance with the provisions of the Dedication, Easement and Maintenance Agreement (Phase 1) recorded in the official records of

Maricopa County, Arizona, at Document No. 2002-1186278, as same may be amended from time to time, and the Dedication, Easement and Maintenance Agreement (Phase 1 Neighborhood) recorded in the official records of Maricopa County, Arizona, at Document No. 2002-1186277, as same may be amended from time to time. Founder does not intend to install a community postal box on each Unit; however, at this time the exact location of each community postal box cannot be determined. The identity and portion of each Unit subject to the Mailbox Easements shall be determined by the as-built location of each community postal box. Once all community postal boxes in the Parcel have been installed, only those Units upon which a community postal box is located shall be deemed subject to the Mailbox Easement and the Mailbox Easement on all other Units shall automatically terminate. No Owner shall have the right to deny access to any other Owner or the United States Postal Service to any community postal box situated on a Unit. The rights and obligations granted herein shall be deemed to run with the land, and the subsequent sale of all or any portion of the Parcel shall not affect such rights and obligations.

17. **No Encroachment on Easement Areas.** No building or other structural Improvements (other than paving, landscaping or above-ground utility Improvements approved by Founder) of any kind shall be erected, placed, installed or maintained on any portion of the Mailbox Easement or any other public utility easement areas, landscape easement areas or access easement areas established by any easement Recorded by Founder prior to or concurrently herewith which in anyway might interfere with or impede the utilization of the particular easement for its intended purpose.

18. **Disclosures.** ALL OWNERS AND PROSPECTIVE PURCHASERS OF UNITS IN THE PARCEL ARE ENCOURAGED TO INDEPENDENTLY INVESTIGATE THE FOLLOWING MATTERS AND ARE HEREBY DEEMED TO HAVE CONSTRUCTIVE NOTICE THEREOF:

(a) **Development.** Founder hereby gives notice that Verrado is intended to be developed as a master-planned residential and commercial community and that, consistent with the development of Verrado as a master-planned community, there will be numerous non-residential uses within Verrado, which may (but shall not necessarily) include lighted ball and recreational fields at school and park sites, multi-family housing, school sites, a district club (i.e., community recreation area), golf courses (including maintenance and clubhouse improvements) and commercial/retail businesses. However, the zoning and land use designations for Verrado are subject to change from time to time, and therefore, notwithstanding anything now, previously or hereafter referenced or described in the land use plan(s) or any other development plan(s) for Verrado, Founder and Trustee make no representations or warranties that: (i) any parcel in Verrado proposed for commercial, retail, residential, school, park, district club, golf course or any other particular use will be committed to or developed for such uses; or (ii) if any such parcels are once used for any commercial, retail, residential, school, park, district club, golf course or other particular uses, that any such use will continue in effect. Each Owner and prospective purchaser is advised to investigate and determine for its own account if the zoning and land use designations for Verrado and other real properties in the vicinity of Verrado are compatible with such Owner's occupancy, use and enjoyment of the Unit purchased by such Owner. Neither Founder nor Trustee makes any representations or warranties concerning the timing, location, configuration or existence of any non-residential use on or about Verrado.

(b) **Adjacent Street/Park Use.** Founder hereby gives notice that certain Units within the Parcel are adjacent to streets that serve as principal collector streets for the Village, which may cause such Units to be exposed to noise, increased traffic and other matters associated with public use of a principal collector street. Founder hereby gives notice that certain Units within the Parcel are adjacent to, or in the vicinity of, neighborhood/district parks intended for use and enjoyment by members of the public, which use may cause such Units to be exposed to light, noise, dust, increased pedestrian and vehicular traffic and other matters associated with the use of and activities at such parks.

(c) **Golf Course.** No Owner shall acquire any interest or rights with respect to any golf course located within or adjacent to any portion of Verrado by virtue of taking title to property in the Village. Neither Founder nor Trustee makes any representations or warranties regarding the construction, ownership or operation of or use rights in any golf course within or adjacent to any portion of Verrado, nor any representations or warranties that any golf course will open to the public, or if any golf course is operated as a private facility, as to the ability of any resident to become a member thereof.

(d) **Nearby Air Force Base.** Founder hereby gives notice that the Parcel lies in the vicinity of the aircraft overflight area for aircraft utilizing Luke Air Force Base (which is an active fighter pilot training facility) and the increased noise and accident potential attendant thereto, which may be of concern to Owners, residents and other Persons. All Owners and prospective purchasers are advised that aircraft may have the right of flight over the Units, and that the Units may be subject to the attendant noise, vibrations, fumes, dust, fuel and lubricant particles and all other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at or on, Luke Air Force Base, which may occur at varying times of the day and night. Further information concerning the operation of Luke Air Force Base and the effect that the operation of Luke Air Force Base may have upon the Village and the Owners and residents thereof may be obtained by contacting Luke Air Force Base. In addition, Founder hereby gives notice that the Parcel lies in the vicinity of the Phoenix-Goodyear Airport, which is a general aviation facility, and the increased noise and accident potential attendant thereto, which may be of concern to Owners, residents and other Persons. All Owners and prospective purchasers are advised that both general aviation and recreation aircraft, including without limitation, hot air balloons, fixed-wing aircraft, ultralights, hang gliders and helicopter, may have the right of flight over the Units, which may result in increased noise, vibrations, or other disturbance or interference, which may be of concern to Owners, residents and other Persons. Founder hereby gives notice that neither Founder nor Trustee have any control over flight patterns, which are subject to change, and are not liable for injury or damage of any kind to persons or property that may arise at any time in the future in connection with the operation of aircraft landing at, or taking off from, or operating at or on, Luke Air Force Base or the Phoenix-Goodyear Airport.

(e) **Community Facilities Districts.** Founder hereby gives notice that certain community facilities districts have been formed that will issue general obligation bonds, the proceeds of which will be applied to finance or acquire public infrastructure benefiting Verrado. The bonds will be paid from a general obligation property tax assessed, in addition to each resident's annual property tax bill, against all property within Verrado, including the Units within the Parcel.

(f) **Main Street District.** Founder hereby gives notice that the Parcel lies in the vicinity of certain property within Verrado that is intended to be developed for commercial, retail and/or community and public use, and which uses may cause the Units to be exposed to light, noise (including without limitation noise associated with community events and the bell in the clock tower), increased pedestrian and vehicular traffic and other matters associated with such uses.

(g) **Adjacent Communication and Broadcast Facility.** Founder hereby gives notice that certain radio communications equipment is located on land adjacent to Verrado (the "Communications Site") and that, pursuant to an Access Easement Agreement, the Founder granted to the owners of that equipment an access easement (the "Access Easement") through portions of Verrado (potentially including public roadways within the Village) to gain access to the Communications Site and to use certain portions of Verrado outside of the Village (the "Staging Areas") for: (i) temporary parking of motor vehicles (including tractors, graders, bulldozers, dump trucks and the like); (ii) temporary storage of construction equipment and materials, and the loading and unloading of construction equipment and materials from motor vehicles; (iii) assembly of antenna or components of antenna, mixing of construction materials relating to the Communications Site; and (iv) any other lawful uses reasonably required for the maintenance, replacement or repair of any radio equipment located within the Communications Site. The Access Easement does not affect the Parcel; in fact, the Staging Areas are located in within Sections 3 and 10 of Township 2 North, Range 3 West of the Gila and Salt River Meridian, Maricopa County, Arizona, more than a mile from the Parcel. A copy of the Access Easement Agreement may be obtained from the Association upon written request. The Association may charge a reasonable fee to cover its reproduction cost.

19. **Interpretation.** This Supplemental Declaration shall run with the land within the Parcel, shall be binding on all parties having or acquiring any right, title or interest in the Parcel or any part thereof, and their respective heirs, successors and assigns, and shall be enforceable in accordance with and as a part of each of the Covenant and the Charter.

20. **Incorporation of Declarations.** The Covenant and the Charter 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 Covenant and the Charter, as applicable. In the event of any conflict between the terms of the Covenant or the Charter and the terms of this Supplemental Declaration, the terms of the Covenant or the Charter, as applicable, shall control.

21. **Effectiveness.** This Supplemental Declaration and the covenants, conditions and restrictions contained herein shall be effective commencing upon the date this Supplemental Declaration is recorded in the official records of Maricopa County, Arizona, and shall remain in full force and effect for so long as the Charter remains in effect.

22. **Amendment.** This Supplemental Declaration may be amended in the same manner as the Charter may be amended in accordance with the provisions of the Charter; provided, that notwithstanding the foregoing, Founder shall be entitled to unilaterally amend this Supplemental Declaration to make any corrections or modifications deemed necessary or

appropriate by the Founder in its sole and absolute discretion due to the designation or depiction of any item or matter on the Plat.

[SIGNATURES ON FOLLOWING PAGE]

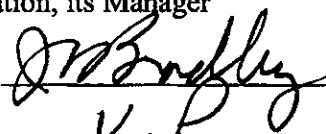
IN WITNESS WHEREOF, Founder and Trustee have executed the foregoing instrument as of the date first set forth above.

FOUNDER:

DMB WHITE TANK, LLC, an Arizona limited liability company

By: DMB REALCO LLC, an Arizona limited liability company, its Manager

By: DMB Associates, Inc., an Arizona corporation, its Manager

By: 
Its: V.P.

TRUSTEE:

FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation, acting not in its corporate capacity but solely as Trustee under its Trust No. B176

By: 

Name: BRENDA MELROY

Its: Trust Officer

ACKNOWLEDGEMENT:

VERRADO COMMUNITY ASSOCIATION, INC.,
an Arizona nonprofit corporation

By: 

Its: PRESIDENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 20 day of July, 2005, by John Bradley, the VP., of DMB Associates, Inc., an Arizona corporation, in its capacity as Manager of DMB REALCO LLC, an Arizona limited liability company, in its capacity as Manager of DMB WHITE TANK, LLC, an Arizona limited liability company, for and on behalf thereof.

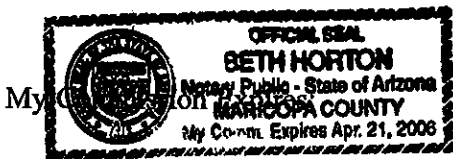
Christine Babler
Notary Public

My Commission Expires:



STATE OF ARIZONA)
) ss.
County Of Maricopa)

The foregoing instrument was acknowledged before me this 27 day of July, 2005, by BRENDA MELROY, the Trustee, of FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation, acting not in its corporate capacity but solely as Trustee of its Trust No. B176, on behalf of the corporation.



Beth Horton
Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 20 day of July, 2005, by Raupeppien, the president, of VERRADO COMMUNITY ASSOCIATION, INC., an Arizona nonprofit corporation, for and on behalf thereof.

Christine Babler
Notary Public

My Commission Expires:



Exhibit "A"

LEGAL DESCRIPTION

Lots 1001 through 1014, inclusive, and Tracts A, B, and C, VERRADO PARCEL 3.410, according to the final plat thereof recorded in Book 762 of Maps, page 28, official records of Maricopa County, Arizona.

