

FIDELITY NATIONAL TITLE

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TC420-18-1-1-
ELECTRONIC RECORDING

SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR VERRADO PARCEL 5.803

This Supplemental Declaration of Covenants, Conditions and Restrictions for Verrado Parcel 5.803 ("**Supplemental Declaration**") is made effective this 5th day of April 2004, 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; 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. **Membership.** Each Owner of a Unit shall be a member of the Association as provided in Section 4.1 of the Charter.

3. **Construction Requirements; Builder Agreement.** The construction of Improvements (as defined in Section 5.1 of the Charter) upon 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, specifically including the Verrado Custom Home Design Guidelines and all related landscaping guidelines. By its acceptance of a deed with respect to any Unit, each Owner is hereby deemed to acknowledge and agree that all initial construction of any Improvements upon a Unit shall be constructed only by an Arizona licensed contractor (“Contractor”) who has submitted to Founder a “Builder Agreement” in the form required by Founder, executed on behalf of the Contractor and the Owner of the Unit reflecting, among other things, that: the Builder shall abide by certain construction rules established by Founder (including, without limitation, a requirement to confirm and /or test and accept the status of all soils conditions on the applicable Unit); and the Builder or Owner may be obligated to provide to Founder a monetary deposit to protect against damage to the Parcel and Village and all improvements therein, and to protect against the failure to comply with all construction rules; the Builder shall provide evidence of certain insurance coverages being in effect prior to entry in the Village and commencement of construction on the Unit; and indemnification of Founder against claims and damages.

4. **Technology.**

(a) **Pre-Wiring Requirements.** By its acceptance of a deed with respect to any Unit, each Owner is hereby deemed to acknowledge and agree that such Owner shall be responsible to, or to cause its Contractor to: (a) satisfy the requirements of the Founder’s specifications and requirements for installation of inside wiring, outlets and trim in the dwelling to be constructed on such Owner’s Unit within the Parcel and (b) install the material referenced therein in accordance therewith in such dwelling, at the sole cost and expense of Owner, such Owner 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.** Owner shall, or shall cause its Contractor to, 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 Owner’s Unit consistent with the applicable plans and specifications therefore (including, if applicable, the final subdivision improvement plans), at the cost and expense of Owner, 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, Owner shall accommodate and permit the installation of technology facilities therein.

(c) **Appointment of Representative.** Owner 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.** Owner shall, or shall cause its Contractor to, 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 the dwelling constructed within the boundaries of the Owner's Unit and not less than fourteen (14) business days written notice of the expected move-in date of the initial resident of the dwelling constructed within the boundaries of the Owner's Unit.

(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.

5. **Installation of Landscaping.**

(a) **Initial Construction.** Unless a written variance is obtained from the Reviewer, each Owner 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 within three (3) months following the issuance of a certificate of occupancy for the initial dwelling constructed on such Owner's Unit. All landscaping shall be installed in a manner consistent with the Community-Wide Standard and the Design Guidelines, specifically including the Verrado Custom Home Design Guidelines and all related landscaping guidelines.

(b) **Revegetation.** At the time of the initial conveyance of fee title to each Unit referenced on Exhibit "B" attached hereto, mass grading work may have been done with respect to all or portions of such Units, in which such Unit will not be in its otherwise natural condition. As to each such Unit, if either: (i) within two (2) years following the initial conveyance of the Unit by, or on behalf of, Founder, the Owner of such Unit has not submitted to the Reviewer for approval its complete submittal of all construction plans required by the Design Guidelines to be submitted for construction of a dwelling thereon, or (ii) within three (3) years following the initial conveyance of the Unit by, or on behalf of, Founder, the Owner thereof has not commenced construction of the dwelling as approved by the Reviewer, then the Founder may, at the sole cost and expense of the Owner of such Unit, plant drought tolerant plants, hydro seed with native grasses and desert groundcovers and otherwise revegetate the graded areas of such Unit in an effort to match the character and density of the surrounding areas

of the Parcel. All revegetation shall be installed in a manner consistent with the Community-Wide Standard and the Design Guidelines.

(c) **Easement; Potential Fine for Violation.** 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 Founder and the Association (and their respective designees) 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 or revegetation, as applicable, as the Association, in its sole and absolute discretion, may determine are not being properly installed by the Owner of the Unit or as otherwise contemplated by the provisions of this Paragraph 5. 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 5. All costs incurred by the Founder or the Association in connection with the installation of landscaping or revegetation, and any fine, shall be considered a Specific Assessment levied pursuant to Section 12.4 of the Covenant.

6. **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.

(c) **Party Walls Adjacent to Common Area.** Notwithstanding the foregoing provisions of this Paragraph 6, 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.

7. **Reservation for Future Development.** Founder and Trustee hereby declare, and each Owner is hereby deemed to have constructive notice, that Tract D as depicted on the Plat is hereby reserved for future development as a booster pump station to serve the Units designated as Lots 323, 324 and 325 (the "Booster Pump Station"). Founder hereby gives notice that the Units designated as Lots 315 and 322 are adjacent to said Tract D, and that the development of Tract D may adversely affect such Units and, among other things, cause such Units to be exposed to increased noise, construction and repair activity and pedestrian, vehicular and other activity associated with the ultimate development and use of Tract D and the operation, maintenance, repair and replacement of the booster pump station and all improvements and equipment associated therewith. Notwithstanding the foregoing, Founder has not yet completed the plans for the Booster Pump Station, and may desire to locate the Booster Pump Station to an area west of Lot 315 instead of on Tract D. Accordingly, Founder also hereby gives notice that that the Booster Pump may be located immediately to the west of Lot 315, and that the development of Booster Pump may affect such Unit more adversely if relocated to the west of Lot 315 instead of being constructed on Tract D.

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. **Identification and Conveyance of Limited Common Area.** Tract D depicted on the final plat for the Parcel identified on Exhibit "A" attached hereto (the "Plat") is hereby designated as a Limited Common Area for the exclusive use or primary benefit of the Units designated as Lots 323, 324 and 325 and shall be conveyed to either the Assembly or the Association and shall be maintained by the Association. By its execution hereof, the Association acknowledges the foregoing and agrees to assume responsibility for maintenance of such tract upon conveyance thereof to either the Assembly or the Association. As contemplated in Paragraph 7 above, Founder may desire to locate the Booster Pump Station to an area west of Lot 315. The Limited Common Area for the exclusive use or primary benefit of the Units designated as Lots 323, 324 and 325 is intended to be the area upon which the Booster Pump Station is ultimately located. Accordingly, if the Booster Pump Station is located other than in Tract D, the new location of the Booster Pump Station shall become the Limited Common Area and Tract D shall no longer be Limited Common Area. Founder reserves the right to unilaterally amend this Supplement to identify such Limited Common Area (if other than Tract D) once the plans for the Booster Pump Station are finalized and if necessary cause Tract D to no longer be identified as Limited Common Area.

11. **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.

12. **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.

13. **Service Area Designations.**

(a) **Service Area 5.803/5.804.** If at any time the Association becomes the owner of fee title to any public streets within the Parcel as contemplated by the Plat (in which event such streets would become private streets), then all of the Units within the Parcel are hereby designated as part of Service Area 5.803/5.804 and in such event the Units will be subject, in addition to all other assessments duly imposed under the Covenant and the Charter, to one or more Service Area Assessments to be levied by the Association with respect to certain Service Area Expenses attributable to Service Area 5.803/5.804, including without limitation expenses associated with the ownership, maintenance, insurance and repair of all converted private streets within such Service Area, together with any open space areas and other common areas and recreational facilities located within such Service Area and reserved for the exclusive use of the residents of such Service Area. The amount of the levy will be established by the Association in accordance with the terms of the Charter.

(b) **Service Area 5.803/Tract D.** The Units within the Parcel designated as Lots 323, 324 and 325 are hereby designated as part of Service Area 5.803/Tract D and such Units will be subject, in addition to all other assessments duly imposed under the Covenant and the Charter, to one or more Service Area Assessments to be levied by the Association with respect to certain Service Area Expenses attributable to Service Area 5.803/Tract D, including without limitation expenses associated with the ownership, maintenance, insurance and repair of Tract D as depicted on the Plat (or as contemplated in Paragraph 10 above, such other area where the Booster Pump Station is ultimately located), which is Limited Common Area reserved for the exclusive use of the residents of such Service Area. The amount of the levy will be established by the Association in accordance with the terms of the Charter.

(c) **Service Area 5.803/Tract E.** The Units within the Parcel designated as Lots 315, 316, 317, 322, 323, 324 and 325 are hereby designated as part of Service Area 5.803/Tract E and such Units will be subject, in addition to all other assessments duly imposed under the Covenant and the Charter, to one or more Service Area Assessments to be levied by the Association with respect to certain Service Area Expenses attributable to Service Area 5.803/Tract E, including without limitation expenses associated with the ownership, maintenance, insurance and repair of Tract E as depicted on the Plat, together with any open space areas and other common areas and recreational facilities located within such Service Area

and reserved for the exclusive use of the residents of such Service Area. The amount of the levy will be established by the Association in accordance with the terms of the Charter.

(d) **Service Area 5.803/Tract F.** The Units within the Parcel designated as Lots 318, 319, 320 and 321 are hereby designated as part of Service Area 5.803/Tract F and such Units will be subject, in addition to all other assessments duly imposed under the Covenant and the Charter, to one or more Service Area Assessments to be levied by the Association with respect to certain Service Area Expenses attributable to Service Area 5.803/Tract F, including without limitation expenses associated with the ownership, maintenance, insurance and repair of Tract F as depicted on the Plat, together with any open space areas and other common areas and recreational facilities located within such Service Area and reserved for the exclusive use of the residents of such Service Area. The amount of the levy will be established by the Association in accordance with the terms of the Charter.

(e) **Notice Regarding Service Areas.** Pursuant to Section 12.2(c) of the Charter, each Service Area Assessment is calculated based upon the number of Units in the Service Area that are subject to assessment. Nothing in this Supplemental Declaration shall limit the rights and powers of the Founder or the Board under the Charter (a) to create or change the boundaries of any Service Area, (b) to determine the Neighborhood Expenses for any Neighborhood, or (c) to perform any other act or function relating to any Service Area. Additionally, each Owner is advised as provided in Paragraph 21(h) below that adjacent Units owned by the same Owner may be treated as a single Unit for purposes of voting and assessment, in which event the total number of Units within the Parcel upon which any Service Area Assessments are allocated would be reduced, and therefore, such reduction would result in a greater portion of any Service Area Assessment being allocated to each Unit.

14. **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.

15. **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.

16. **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.

17. **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 5 and 6 above, any and all costs incurred by the Association in performing such landscaping, repair or maintenance on behalf of such Owner pursuant to Paragraphs 5 and 6 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.

18. **Lighting of Common Area.** Founder reserves to itself and its successors and assigns the right (but Founder shall have no obligation) to install, remove, maintain, replace and repair a booster pump station, lighting fixtures, related electrical lines and other related facilities, within Tract D identified on the Plat for the purpose of facilitating use of such area as a booster pump station in the future. The design and location of the booster pump station and all such fixtures, lines and related facilities (without regard to whether such booster pump station, fixtures, lines and related facilities were installed by Founder or by any other person or entity) shall be as determined by Association, consistent with the Design Guidelines, and the Association shall determine from time to time the days and hours of the day on which such lighting fixtures shall be operated.

19. **Notice Regarding Drainage.** No Owner, resident or other Person shall be permitted to cause or allow drainage or excess storm water runoff to flow from a Unit or any other portion of the Parcel onto or over any golf course or wash areas located within or adjacent to any portion of the Village, nor to install, construct, maintain, operate or use any facilities or equipment for such purposes, except as contemplated by and in accordance with the Town approved drainage plans and specifications. The foregoing prohibition specifically includes, but is not limited to, the flow and drainage of swimming pool backwash water.

20. **Reservation of Easements.**

(a) **Drainage Easements.** Trustee and Founder, each as to its own legal and/or beneficial interest in the Parcel, hereby grant to the Association and to the Owners of the Units, separate perpetual easements over, upon and across those portions of the Units designated as Lots 303, 304, 314, 318, 321, 322 and 323 designated on the Plat as "Private Drainage Easement", and those portions of Tracts E, F and G that are adjacent to the Private Drainage Easements as needed to fully extend and connect the Private Drainage Easements to a fully continuous area the same width as the Private Drainage Easements that are immediately adjacent thereto (the foregoing collectively, the "Drainage Areas"), in each case for purposes of installation, use, maintenance, repair, replacement and operation of surface and subsurface storm water channels, culverts, bank stabilization improvements, retention areas, storm drains, and other drainage facilities, and all related facilities and equipment (collectively, the "Drainage Improvements") for purposes of providing drainage, diversion, use and/or storage of storm water runoff generated from the Parcel and adjacent property, but only in a manner consistent

with applicable drainage plans as approved by the Town, as such plans may be amended from time to time (the "Approved Drainage Plans").

(1) Except as may be required to implement any Approved Drainage Plan, no structure of any kind shall be constructed or vegetation planted or allowed to grow within any Drainage Area that would impede the flow of water over, under or through such Drainage Area or Drainage Improvements or, if applicable, materially reduce the retention capacity of any such Drainage Area or Drainage Improvements.

(2) The Association shall be responsible for maintaining all Drainage Improvements as Areas of Common Responsibility of the Parcel. Trustee and Founder hereby reserve and grant to the Association, and its successors and assigns, together with its employees, agents and contractors, a perpetual non-exclusive easement over, under, upon and across the Drainage Areas for purposes of such access as may be necessary or appropriate to perform the maintenance of the Drainage Improvements; provided, however that such easement shall not be used in a manner that is inconsistent with, or which unreasonably interferes with, an Owner's use and enjoyment of the Unit on which any Drainage Improvements are situated. By its execution hereof, the Association acknowledges the foregoing and agrees to assume responsibility for maintenance of such Drainage Improvements.

(3) All persons and entities using the easements and rights granted and reserved hereby shall avoid any damage to property and any improvements located at any time thereon; and upon completion of any installation, maintenance, repair or replacement of the Drainage Improvements, shall promptly return the affected property (including any landscaping, paving, or other improvements thereon,) to its prior condition, at its sole expense.

(b) **Public Utility Easement.** Founder and Trustee hereby grant to the Town, for the benefit of the public, a non-exclusive public utility easement over, under, upon and across Tracts E and F for the purpose of installing, constructing, maintaining, replacing, repairing and operating public utility services, including water, sewer, electric, gas, CATV, telephone, communications, security and fire control, and other related facilities; provided, however, that (a) all utility lines shall be constructed underground and the location (but not the design) of all utility lines and other utility improvements shall be subject to the prior review and approval of the Town (such approval not to be unreasonably withheld, conditioned or delayed), (b) all persons and entities using the easements and rights granted and reserved hereby shall avoid any damage to property and any improvements located at any time thereon, and (c) upon the completion of any installation, construction, maintenance, replacement or repair of any utility line or other facility within such easement, the applicable public agency or utility company shall promptly return the affected property (including any improvements and landscaping and related irrigation facilities thereon) to its prior condition, at the sole expense of such public agency or utility company.

(1) In elaboration of the foregoing, the obligation to return affected property to its prior condition upon the completion of any such installation, construction, maintenance, repair, or replacement shall be as follows: (a) within desert landscape areas such obligation shall include leveling and filling earth to pre-existing contours, replacing cacti and shrubs, and re-seeding with native plant seeds, and (b) in all areas such obligation shall include

repair or replacement to its prior condition of any paving, curbs, gutter, sidewalks, landscaping, irrigation lines, sprinklers or other similar facilities, or fence damaged or disturbed.

(2) Construction within such areas, except by public agencies and utility companies, shall be limited to utilities, roadway improvements and related paving, curbs, gutters and sidewalks (to the extent, if any, that any roadway may now or hereafter be constructed over such Tracts), paths and trails, and wood, wire, or removable section-type fencing, and must otherwise conform with all Town codes and regulations and, to the extent applicable, to the Charter and all other applicable covenants, conditions and restrictions.

(3) Each utility company utilizing the easements or rights granted pursuant to this Paragraph 20(c) shall indemnify, defend and hold the Town, the Association, the Assembly, Founder and Trustee and each Beneficiary of Fidelity National Title Trust No. B176 (the "Trust") harmless for, from and against any and all claims, costs, damages, losses and expenses (including but not limited to attorneys' fees, court costs and the cost of appellate proceedings), suffered or incurred as a result of, or in connection with, any bodily injury or death or injury to or impairment or destruction of property, including the loss of use thereof, relating to, arising out of or occasioned by the use of the easement and rights granted pursuant to this Paragraph.

(4) Notwithstanding any other provision hereof, any proposed installation of any utility line or related facility within any such area shall be subject to all applicable Town approvals and processes, and the Town has the right to impose, levy and collect franchise fees, license fees, taxes or other fees imposed by municipalities for use of rights-of-way, notwithstanding that the any such utility line or related facility is located in a public utility easement.

(c) **Fiber Easement.** Trustee and Founder hereby expressly reserve for themselves, together with the right to transfer the same, perpetual non-exclusive easements over, under, upon and across Tracts E and F for purposes of use of such area for installation, construction, maintenance, repair, or replacement of conduit, wires, cables, lines and other related facilities and equipment for private fiber optic or telecommunications service (the "**Fiber Easement**"); provided and only to the extent that such use is not inconsistent with, and does not unreasonably interfere with, the use of such area for public utility purposes in accordance with the provisions of this Paragraph. All persons and entities using the Fiber Easement and rights granted and reserved hereby shall avoid any damage to property and any improvements located at any time thereon; and upon completion of any installation, construction, maintenance, replacement or repair of any drainage improvement, utility line or other facility within such easement, shall promptly return the affected property (including any improvements and landscaping and related irrigation facilities thereon) to its prior condition, at the sole expense of such person or entity. Likewise, each public utility shall avoid any damage to any improvements located at any time within the Fiber Easement.

21. **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 Map of Dedication for Verrado Phase 1

recorded in the official records of Maricopa County, Arizona, in Book 612, page 39, and/or on the Map of Dedication for Verrado Phase 1 Neighborhood recorded in the official records of Maricopa County, Arizona, in Book 613, page 10, 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.

22. **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.

23. **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 make 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 make 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.

(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 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. 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.

(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 against all property within Verrado, including the Units within the Parcel.

(f) **Town Center.** 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.

(h) **Notice Regarding Combination of Units.** Founder hereby gives notice that Section 7.1(d) of the Charter permits Units to be combined by the Founder, certain Builders, or with the prior written approval of the Board. Founder hereby gives notice that in connection with the granting of any such approval to combine Units within the Parcel, adjacent Units owned by the same Owner may thereafter be treated as a single Unit for purposes of voting and assessment, in which event the total number of Units within the Parcel upon which any Service Area Assessments are allocated would be reduced. Such reduction in the number of Units within the Parcel would thereby result in a greater portion of any Service Area Assessment being allocated to each Unit and potentially increase the amount of the Service Area Assessment for each applicable Unit.

24. **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.

25. **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.

26. **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.

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: J. Bradley
V.P.

Its: _____

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: Barbara J. Secrest

Name: Barbara J. Secrest

Its: TRUST OFFICER

ACKNOWLEDGEMENT:

VERRADO COMMUNITY ASSOCIATION, INC.,
an Arizona nonprofit corporation

By: [Signature]

Its: PRESIDENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 13 day of April, 2004, 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.

[Signature]
Notary Public

My Commission Expires:

3/26/07



STATE OF ARIZONA)
) ss.
County Of Maricopa)

The foregoing instrument was acknowledged before me this 20 day of April, 2004, by Barbara J. Secret, the Trust Officer, 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.



[Signature]
Notary Public

My Commission Expires: 01/01/05

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 7 day of April, 2004, by Ray Leppien, the President, of VERRADO COMMUNITY ASSOCIATION, INC., an Arizona nonprofit corporation, for and on behalf thereof.

[Signature]
Notary Public

My Commission Expires:

3/26/07

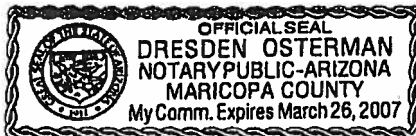


Exhibit "A"

LEGAL DESCRIPTION

Lots 301 through 325, inclusive, and Tracts A through F, inclusive, VERRADO PARCEL 5.803, according to the final plat thereof recorded in Book 676 of Maps, page 3, official records of Maricopa County, Arizona.

Exhibit "B"

LEGAL DESCRIPTION OF LOTS SUBJECT TO POTENTIAL REVEGETATION

Lots 301 through 314, inclusive, VERRADO PARCEL 5.803,
according to the final plat thereof recorded in Book 676 of Maps,
page 3, official records of Maricopa County, Arizona.