

Nancy E. Rister

Nancy E. Rister, County Clerk

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Williamson County Texas

AFTER RECORDING RETURN TO:

William P. McLean
McLean & Howard, L.L.P.
Barton Oaks Plaza, Building II
901 S. MoPac Expy., Suite 225
Austin, Texas 78746

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
CIMARRON HILLS**

This First Amendment to Declaration of Covenants, Conditions and Restrictions for Cimarron Hills (this "**Amendment**") is made this 19 day of October, 2012 (the "**Effective Date**") by **CIMARRON HILLS DEVELOPMENT, L. L. C.**, an Arizona limited liability company authorized to do business in Texas (the "**Declarant**"), and is as follows:

RECITALS

WHEREAS, Cimarron Hills, a master planned community located in Williamson County, Texas (the "**Community**"), was established pursuant to that certain Declaration of Covenants, Conditions and Restrictions for Cimarron Hills recorded as Document No. 2001007792, corrected and re-recorded as Document No. 2001010234, Official Public Records of Williamson County, Texas (collectively the "**Declaration**"); and

WHEREAS, Declarant acquired its rights as Declarant under the Declaration pursuant to the Assignment of Declarant Rights recorded under Document No. 2012087326 in the Official Public Records of Williamson County, Texas; and

WHEREAS, Cimarron Hills Community Association, Inc. (the "**Association**") and Cimarron Hills 2009, L.P. (the "**Club**") have entered into an Association Use and Management Agreement for Cimarron Hills Golf & Country Club (the "**Club Agreement**"), whereby all Owners of Lots within the Community automatically become Social Members of the Club (as defined in the Cimarron Hills Golf & Country Club Amended and Restated Membership Plan, as may be amended from time to time by the Club); and

WHEREAS, pursuant to Article XVII, Section 2 of the Declaration, prior to the Turnover Date (as defined in the Declaration), Declarant may amend the Declaration in its sole and absolute discretion; and

WHEREAS, the Turnover Date has not occurred; and

WHEREAS, in exercise of its rights under Article XVII, Section 2 of the Declaration,

Declarant desires to amend the Declaration to incorporate the provisions of the Club Agreement into the Declaration, and to further amend the Declaration as set forth herein.

NOW THEREFORE, THE DECLARATION IS HEREBY AMENDED AS FOLLOWS:

1. Amendment to Maximum Number of Units. Article II of the Declaration is hereby modified to include the following quoted language as a new paragraph (c) under Section 3 of Article II:

“(c) Declarant reserves the right, alone and in its sole discretion, to determine the number of Lots to be subjected to the provisions of this Declaration, but not in excess of, an aggregate of nine hundred seventy-five (975) Lots within the Community.”

2. Club Property. The first paragraph and subparagraph (a) of Article XX, Section 1 of the Declaration are hereby deleted in their entirety and replaced with the following quoted language:

“1. Club Property. The Club Property is privately owned and operated by the Club and is not part of the Common Area hereunder. The Club has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Club Property shall be used. By way of example, but not limitation, the Club has the right to approve users and determine eligibility for use, to reserve use rights for future purchasers of Lots or Units within the Community, to terminate any or all use rights, to change, eliminate or cease operation of any or all of the Club Property, to transfer any or all of its rights to the Club Property or the operation thereof to anyone and on any terms which it deems appropriate, to limit the availability of use privileges, and to require the payment of a purchase price, initiation fee, membership deposit, dues and other charges for use privileges. Each Owner, by acceptance of a deed or recorded contract of sale for a Lot agrees and acknowledges:

(a) That each Owner of a Lot within the Community shall be required to maintain a Social Membership with the Club (as defined in the Cimarron Hills Golf & Country Club Amended and Restated Membership Plan, hereinafter the “**Membership Plan**”) through the date of such Owner’s subsequent transfer of the Lot. Within thirty (30) days after closing on a Lot, each Owner, other than the Declarant or any Builder, shall be required to submit a Resident Membership Agreement (“**RMA**”) for Social Membership, including payment of the then required initiation deposit, to the Club. There shall be only one (1) Social Membership per Lot. If a Lot is owned by more than one (1) person, all co-Owners shall share in the privileges of the Social Membership, as such privileges are defined in the Membership Plan as may be amended from time to time by the Club. Each Owner’s privileges to use the Club shall be subject to the terms of the membership documents for the Club, including, but not limited to the RMA, Membership Plan, and the Cimarron Hills Golf & Country Club Rules and Regulations, as same may be amended from time to time by the Club (collectively, the “**Membership Plan Documents**”). Each Owner’s Club membership dues (the “**Membership Contributions**”) shall be payable by the Owner to the Association on a monthly basis, as part of the Owner’s monthly

Assessment. The Association shall pay the monthly Membership Contributions for all Lots directly to the Club, pursuant to the terms of the Club Agreement. All Membership Contributions shall be Assessments of the Association, subject to the provisions of Article IX of the Declaration. Upon any subsequent transfer of a Lot, the new owner of such Lot (the “**New Owner**”) shall be responsible for payment of all Membership Contributions for such Lot as of the date of transfer, and shall submit an RMA for Social Membership to the Club within thirty (30) days after the transfer of the Lot to the New Owner. In addition, there shall be a \$1,000.00 transfer fee payable directly to the Club upon the transfer of each Lot. The Owner and New Owner shall negotiate and determine which party shall be responsible for payment of the transfer fee to the Club. Notwithstanding the foregoing, an Owner may satisfy the requirements of this paragraph by voluntarily electing to maintain a Golf or Sport Membership with the Club (as defined in the Membership Plan). If an Owner maintains a Golf or Sport Membership with the Club, a portion of the Owner’s monthly Membership Contributions (equal to the monthly Membership Contribution for a Social Membership with the Club as set forth herein) will be included in the Owner’s monthly Assessment payable to the Association. The balance will be payable directly to the Club in accordance with the Membership Plan Documents. If an Owner subsequently resigns its Golf or Sport Membership with the Club, it will still be obligated to maintain a Social Membership as set forth herein. Each Owner, by acquisition of title to a Lot, further agrees and acknowledges that, the Club represents an important and focal part of the Community and that its presence and quality appearance and operation are important to the well-being of the Community and the value of Lots.

Each Owner, by its current ownership or acquisition of title to a Lot, further agrees and acknowledges that, prior to the Turnover Date, Declarant may, in its sole and absolute discretion, discontinue the requirement for mandatory membership in the Club as set forth in this Section 1(a) for existing Owners or new purchasers or Lots whereby less than all of the Owners within the Community would be held subject to the mandatory membership requirements.

Each Owner, by acquisition of title to a Lot releases and discharges forever, the Declarant, the Club and their partners, officers, directors, employees, agents and affiliates from: (1) any claim that the Club Property is, or must be, owned and/or operated by the Association and/or the Owners; and/or (2) any claim that the Owners are entitled to use the Club Property by virtue of their ownership of a Lot without acquiring a membership in the Club as provided herein, paying the applicable initiation deposits and Membership Contributions, and any other dues, fees and charges established by the Club from time to time, and complying with the terms and conditions of the Membership Plan Documents for the Club.

The requirements of this Section 1(a) shall become effective with respect to all Lots within the Community, other than those Lots owned by the Declarant or any Builder, immediately upon the Effective Date. Following the Effective Date, each Owner of a Lot within the Community, other than the Declarant or any Builder, shall be required to apply for a Social Membership with the Club and otherwise comply with the requirements of this Section 1(a), regardless of whether such Owner acquired title to a Lot prior to the Effective Date of this Amendment.”

3. Amendments to Community Design Book. The last paragraph of Article VI, Section 2 of the Declaration is hereby deleted in its entirety and replaced with the following quoted language:

“The design and development guidelines and application and review procedures for the construction of Improvements are set forth in the Community Design Book. A copy of the Community Design Book is attached hereto as Exhibit “C” and made a part hereof for all purposes. Declarant shall have sole and full authority to amend the Community Design Book until the Turnover Date, however, Declarant may delegate its authority to amend the Community Design Book to any ARC prior to the Turnover Date. Declarant’s delegation of authority as set forth in the preceding sentence may be a full or partial delegation of such authority and may be limited to certain specific areas within the Community. After the Turnover Date, the ARC shall have sole and full authority to amend the Community Design Book. The Community Design Book is available to Owners and Builders who seek to engage in the development of or construction of Improvements upon all or any portion of the Property, and such Owners or Builders shall conduct their operations strictly in accordance therewith.

Prior to the Turnover Date, Declarant shall have the right, in its sole and absolute discretion, to appoint itself as ARC or to create one or more new ARC’s to serve the functions described in this Article VI. In appointing itself as ARC or creating new ARC’s, Declarant may also expand, limit or define the powers of each ARC and/or geographic areas within the Community that the ARC’s have authority to act. Declarant shall make the appointment of itself or a new ARC in writing describing the duties and function of itself or the new ARC acting in such capacity. Declarant may also modify or waive the procedures and materials required for the approval of Improvements. It is contemplated by Declarant that it will serve as the ARC and that the formal procedures and materials required for approval of Improvements will be simplified or streamlined and certain fees may be waived for any new sections of the Community where Builders are participating in volume purchases of Lots and construction of homes thereon. By this Amendment, Declarant appoints itself as ARC for all purposes, power and authority for all matters pertaining to Phase 2, Section 2 (the “Fairway Homes”) and Phase 2, Section 3 (the “Villa Homes”).”

4. Miscellaneous. Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration. Unless expressly amended by this Amendment, all other terms and provisions of the Declaration remain in full force and effect as written, and are hereby ratified and confirmed.

[SIGNATURE PAGE FOLLOWS]

Executed to be effective as of the Effective Date set forth above.

DECLARANT:

CIMARRON HILLS DEVELOPMENT, L.L.C.,
an Arizona limited liability company


By: CIMARRON 2009, LLC,
an Arizona limited liability company, its Sole Member

By: DT LIFESTYLE, L.L.C.,
an Arizona limited liability company,
fka DTR1B, L.L.C., its Sole Member

By: DTR1, L.L.C., an Arizona
limited liability company, its Manager


By: DESERT TROON LIMITED, L.L.C.,
an Arizona limited liability company, its Manager

By: DT INVESTMENTS, INC.,
an Arizona corporation, its Manager

By: 
Name: Gary S. Elbogen
Title: Vice President

THE STATE OF ARIZONA §
 §
COUNTY OF MARICOPA _____ §

This instrument was acknowledged before me on this 18th day of October, 2012, by Gary S. Elbogen as Vice President of DT Investments, Inc., an Arizona corporation, the manager of Desert Troon Limited, L.L.C., an Arizona limited liability company, the manager of DTR1, L.L.C., an Arizona limited liability company, the manager of DT Lifestyle, L.L.C. fka DTR1B, L.L.C., an Arizona limited liability company, the sole member of Cimarron 2009, LLC, an Arizona limited liability company, the sole member of Cimarron Hills Development, L.L.C., an Arizona limited liability company, on behalf of said entities.


Notary Public, State of Arizona

