

*Deferred Equity Membership Plan*

*for*

*The Desert Mountain Club*



*Effective Date: July 1, 1994*

## INTRODUCTION TO DEFERRED EQUITY MEMBERSHIP PLAN

### PERPETUAL MEMBERSHIP PRIVILEGES FOR FUTURE RESALE BUYERS IN "UNBROKEN CHAIN"

This Deferred Equity Membership Plan offers you an opportunity to acquire an equity membership in The Desert Mountain Club, referred to herein as the "Club." The Club is a private club with golf, tennis, swimming and social facilities located within the Desert Mountain residential community ("Desert Mountain"). The single most outstanding feature of the Deferred Equity Membership Plan is it gives an Equity Member the ability to guarantee all future purchasers of his or her home or lot that, so long as they own such property, they can enjoy equivalent membership privileges, subject to the terms and conditions addressed more fully herein. This guaranty applies so long as there is an "unbroken chain" of resale buyers who, at each successive property transfer, each acquire the comparable level of deferred equity membership that their respective seller held. As discussed herein, the time when members under this program become "equity" members (i.e., actually own and control and Club Facilities, and become responsible for paying any operating deficits) is deferred to a later date. For purposes of ease of reference in reviewing this document, however, this Deferred Equity Membership Plan is referred to as the "Equity Membership Plan," "this Membership Plan," or the "Plan," and Deferred Equity Members are referred to as "Equity Members." These abbreviated defined terms are not intended to modify or diminish the deferred nature of the equity feature of this Membership Plan, but are used for convenience only.

### UNIQUE "LEGACY MEMBERSHIP" OPPORTUNITY

Another unique feature of the Equity Membership Plan is a limited opportunity to acquire a second lot at Desert Mountain with a "Legacy Membership," which provides for the children of a member, on a rotating basis, to become the designated "Member" during, and after, the member's lifetime. This feature is available to current property owners and original Charter Members who have sold their original lot at Desert Mountain and who contract no later than 5:00 p.m. December 15, 1994, to purchase another lot from Desert Mountain Properties.

### EXISTING CLUB FACILITIES

The facilities of the Club, referred to in this Membership Plan as the "Club Facilities," currently include the following:

- . Three 18-hole Jack Nicklaus Signature golf courses, including practice ranges:
  - .. Cochise course
  - .. Geronimo course
  - .. Renegade course
- . A fourth Jack Nicklaus-designed course (under construction)

**The Sonoran Clubhouse, which includes:**

- .. Restaurant and dining facilities
- .. Bar and lounge
- .. Fitness center
  - Cardiovascular & weight training equipment
  - Aerobics room
- .. Men's and women's locker rooms
- .. Outdoor terraces
- .. Tennis pro shop
- .. Children's play areas
- .. Croquet lawn
- .. 5 tennis courts (hard, clay and grass surfaces). Additional tennis courts may be added in the future in the sole discretion of Desert Mountain Properties.
- .. Lap and play swimming pool and spa

**The Cochise/Geronimo Clubhouse, which includes:**

- .. Dining rooms
- .. Golf shop
- .. Lounges
- .. Men's and women's locker rooms
- .. Private library
- .. Steam room
- .. Terraces

In order to match the changing needs and desires of the Club's membership, existing facilities and services, including times of operations, may be supplemented, modified or eliminated from time to time.

**ADDITIONAL CLUB FACILITIES**

In addition to the existing Club Facilities, additional golf courses may be added, subject to applicable governmental regulations, water availability, economic feasibility and the demand for Golf Memberships. With the initial announcement of this Membership Plan, the construction of a fourth Jack Nicklaus-designed golf course is under construction, and is scheduled to be completed in late 1995 or early 1996.

**OWNERSHIP OF CLUB FACILITIES BY NEW ENTITY**

Desert Mountain Properties, an Arizona general partnership, ("DMP") will ultimately transfer ownership of all of the Club Facilities to a new corporation or other single purpose business entity to be formed at the time of such transfer.

**MEMBERSHIP PRIVILEGES**

Membership in the Club is an opportunity to belong to a private club. Each Equity Member will ultimately be entitled to have an ownership interest in the Club and to vote on matters affecting the Club. The Club offers two categories

of Equity Membership: Golf and Club. Each category of membership provides certain rights and privileges to use the Club Facilities.

**CAREFULLY  
REVIEW ALL  
MEMBERSHIP  
DOCUMENTS**

This Membership Plan is a detailed description of the membership opportunities offered by the Club and is qualified by the definitive information set forth herein. Every person who desires to purchase a home or lot in Desert Mountain or a membership in the Club should carefully read this Membership Plan in its entirety and should consider seeking professional advice in evaluating this document.

**RELY ONLY ON  
THE INFORMATION  
IN THIS  
MEMBERSHIP PLAN**

No person has been authorized to give any information or make any representation not contained in this Membership Plan.

**FOLLOW THESE  
PROCEDURES  
TO APPLY FOR A  
MEMBERSHIP**

Persons who desire to acquire an Equity Membership are required to apply for membership as follows:

1. Fully complete and sign the Application for Deferred Equity Membership; and
2. Deliver or mail to The Desert Mountain Club, 6263 North Scottsdale Road, Suite 200, Scottsdale, Arizona 85250:
  - (a) the completed and signed Application for Deferred Equity Membership; and
  - (b) a check in U.S. funds for the amount of the applicable Membership Contribution (where the membership is being acquired as an integral part of a lot or home purchase from DMP, the Membership Contribution shall be paid in full prior to close of escrow).

**MEMBERSHIPS ARE  
OFFERED ONLY  
FOR  
RECREATIONAL  
PURPOSES**

**MEMBERSHIPS ARE BEING OFFERED EXCLUSIVELY FOR THE PURPOSE OF PERMITTING PERSONS ACQUIRING A MEMBERSHIP TO USE THE CLUB FACILITIES. MEMBERSHIPS SHOULD NOT BE VIEWED OR ACQUIRED AS AN INVESTMENT AND NO PERSON PURCHASING A MEMBERSHIP SHOULD EXPECT TO DERIVE ANY ECONOMIC PROFITS FROM MEMBERSHIP IN THE CLUB.**

**NO FEDERAL OR STATE AUTHORITY HAS PASSED UPON OR ENDORSED THE MERITS OF THIS MEMBERSHIP PROGRAM.**

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## **I. GENERAL DESCRIPTION OF MEMBERSHIP PLAN**

### **GENERAL DESCRIPTION**

DMP has implemented this Membership Plan whereby the privilege to use the Club Facilities will be available to the members of the Club and their guests, subject to the terms and conditions set forth in this Membership Plan. The terms of the agreement with respect to the transfer of ownership of the Club Facilities and the turnover of management and control of the Club Facilities to the Equity Members of the Club are described in Section VI hereof, entitled "Asset Transfer." The terms upon which persons may apply for membership in the Club are described in Section II hereof, entitled "Equity Memberships."

### **IDENTITY OF "DMP" AND "CLUB"**

"DMP," as used throughout this Membership Plan, means Desert Mountain Properties, an Arizona general partnership. DMP reserves the right to assign any or all of its various rights hereunder to one or more of its partners, such partners' respective affiliates, and authorized assignees of the foregoing. Prior to the Turnover Date, the "Club" is DMP and DMP shall hold all rights and obligations of the Club identified in this Membership Plan. Following the Turnover Date, the new corporation or other business entity owned by the Equity Members, and not DMP, shall constitute the "Club" with respect to all such rights and obligations identified herein as belonging to the Club. References to "DMP," and not the "Club," with respect to certain rights arising or continuing after the Turnover Date are intentional and are to be exercised by DMP and/or its expressly appointed assignees, as permitted above.

## **II. EQUITY MEMBERSHIPS**

### **A. IN GENERAL**

### **TWO CATEGORIES OF EQUITY MEMBERSHIP**

Two categories of Equity Membership are offered: Deferred Equity Golf and Deferred Equity Club (collectively, the "Equity Memberships"). For purposes of convenience throughout this Plan, Deferred Equity Golf Memberships are referred to as "Golf Memberships," and Deferred Equity Club Memberships are referred to as "Club Memberships." Such abbreviated membership category names, as used throughout this Plan, are not to be confused with, or interchanged with, any membership category which existed prior to this Plan, including memberships with the same or similar formal or generic names (e.g., non-equity "Club Memberships").

### **MAXIMUM NUMBER OF MEMBERSHIPS**

The total number of Golf Memberships will not exceed four hundred seventy-five (475) per golf course, but may temporarily be exceeded pending completion of the fourth course or any other additional course. The number of issuable Golf Memberships will be temporarily reduced by the number of those active Regular and Charter Memberships which have the same use privileges as Golf Memberships and for whose resale property buyer an Equity Golf Membership has been reserved. The total number of Club Memberships will not exceed one hundred twenty-five (125) per golf course.

**RIGHT TO MODIFY  
MEMBERSHIP  
CATEGORIES  
AND PRIVILEGES**

From time to time, the Club may modify or add additional membership categories, in the sole discretion of the Club, in order to facilitate the changing needs and desires of the Club's membership. In no event, however, shall the modified or new membership category have golf privileges equal to or greater than Golf Memberships. In modifying or creating such membership categories, the Club shall take into account the then-prevailing standards of play at comparable fine clubs throughout the world. Furthermore, in the event other recreational facilities are added to the Club, the Club may offer an appropriate category and number of additional memberships.

**B. ELIGIBILITY**

**ELIGIBILITY  
FOR EQUITY  
MEMBERSHIPS**

Subject to DMP's reserved rights hereunder, Equity Memberships will be available to qualifying Desert Mountain property owners (i.e., owners of property within the gated Desert Mountain planned community) approved for membership who pay the required Membership Contribution. The number of Equity Memberships is limited, and eligibility for membership is subject to availability.

**INITIAL RETAIL  
PURCHASERS MAY  
ACQUIRE AN  
EQUITY  
MEMBERSHIP**

Retail purchasers from DMP of homes or lots in Desert Mountain who purchased such home or lot pursuant to the July 1, 1994, or later price list may acquire, subject to availability and membership application approval, an Equity Membership at the closing of the purchase of the home or lot. In addition, memberships may be acquired by the resale purchasers of homes or lots owned by Equity Members at the closing on the purchase of their property, in accordance with the conditions and procedures described in Section II.D of this Membership Plan. Such memberships will be in the then-current form and will afford rights and privileges which are substantially the same as those set forth in this Membership Plan. Only one membership may be acquired for each home or lot in Desert Mountain. The Membership Contribution to be paid for a membership will be that charged on the date the membership is issued.

**RETAINED  
MEMBERSHIPS ARE  
NOT CONSIDERED  
AVAILABLE**

DMP may, from time to time, retain memberships in any category for sale to future initial purchasers of homes or lots at Desert Mountain from DMP or its designated assigns, or for individuals who do not own homes or lots at Desert Mountain, in its sole and absolute discretion. DMP is retaining all remaining memberships not acquired by existing eligible members or reserved by existing eligible members for such members' immediate resale buyers. Memberships retained by DMP shall not be considered as available memberships, and DMP shall not be compelled to sell such retained memberships. DMP shall be entitled to exercise all voting privileges associated with DMP's retained memberships.

**PURCHASERS OF  
TWO HOMES OR  
LOTS SHOULD  
CONSIDER  
ACQUIRING A  
MEMBERSHIP  
FOR EACH  
HOME OR LOT**

If a person acquires two homes or lots in Desert Mountain, the owner must apply for a membership for each home or lot if membership privileges are desired for each home or lot. Persons who acquire two contiguous lots and who construct only one home thereon may desire only one membership. If such person records a permanent lot tying covenant against his or her two contiguous lots, such person may acquire two memberships and hold the second membership inactive, with no

dues payable thereon, for up to ten (10) years. Such second membership may, upon the resale of both tied lots, be retained by the seller of such lots following such sale, and, in such event, shall not be subject to the Club's option to purchase such membership as provided in Section II.D but may not be transferred by such seller except for a surrender to the Club in exchange for any applicable Surrender Payment. Once tied, two lots shall thereafter be considered as one lot for all purposes pertaining to memberships. If a membership was not acquired for the second lot (whether non-contiguous or contiguous, but not so tied), and the second lot is subsequently sold, then an additional membership must then be acquired if the purchaser of the second lot is to be permitted to use the Club Facilities. The subsequent purchaser of the second lot will be able to acquire a membership only if one is available. Until further notice, this "tied lot dual membership" opportunity will also be available to existing (pre-Plan) lot owners who hold a non-equity membership and who acquire the contiguous lot with an Equity Membership issued pursuant to this Membership Plan. In such instance, the Equity Membership shall initially be held inactive and, upon the resale of the tied lots, the pre-Plan non-equity membership shall be the membership retained by the seller.

### **C. MEMBERSHIP PRIVILEGES**

All membership privileges will be subject to the general Club rules, policies and procedures, including membership guidelines. Each category of Equity Membership entitles the member to the following rights and privileges:

#### **GOLF MEMBERSHIP**

Golf Members are entitled to use all of the golf, tennis, swimming and social facilities of the Club. Golf Members will have the highest priority sign-up privilege to reserve golf starting times and the same priority to reserve tennis court times as Club Members. Golf Members shall be required to pay golf cart fees for the use of golf carts.

#### **CLUB MEMBERSHIP**

Club Members are entitled to use all of the tennis, swimming and social facilities of the Club. Club Members will have the same priority sign-up privilege as Golf Members to reserve tennis court times. Club Members shall have golf playing privileges, on a fee-paying basis, as determined each year by the Club, but not less than twenty (20) rounds each calendar year, no more than eight (8) of which shall be available for use during the period commencing January 15 and ending May 15. For purposes of this paragraph, a "round" shall be calculated on a "per-individual" basis, including the Club Member and each member of his immediate family participating as other than a paid guest of another member. Each such round played by the member or by a member of the immediate family of the member shall count as one round; accordingly, a member playing in the same foursome with three persons in his or her immediate family shall count as four rounds. Club Members shall be required to pay green fees and golf cart fees for their use of the golf facilities of the Club equal to those paid by accompanied guests of Golf Members.



**THE CLUB MAY  
CHANGE RULES  
REGARDING THE  
USE OF THE CLUB  
FACILITIES**

The Club reserves the right, from time to time, to establish and modify general Club rules, policies and procedures governing access privileges and starting times with respect to the golf courses, the tennis courts and the other recreational facilities of the Club, and other matters for the general welfare of the membership and operation of the Club Facilities.

**VOTING  
PRIVILEGES**

Each Equity Membership entitles the member (and DMP, as to retained, reserved, inactive or unissued memberships, including, without limitation, memberships reserved by existing members for their subsequent property buyers) to vote on all matters to be voted upon by the members of the Club. Golf Members are entitled to two votes per membership, and Club Members are entitled to one vote per membership. Prior to the Turnover Date (as defined in Section VI.E), such votes shall be deemed advisory in nature in response to issues placed before the membership by the Board of Directors, except as provided in Section X regarding changes to this Membership Plan that are materially adverse to the rights of the Equity Members.

**USE OF THE CLUB  
FACILITIES BY THE  
IMMEDIATE  
FAMILY OF A  
MEMBER**

The Equity Membership entitles the member and the immediate family of the member to use the Club Facilities in accordance with the membership category selected by the member. A member's immediate family, for all purposes under this Membership Plan, includes the member's spouse and their unmarried children under the age of twenty-five.

**MEMBERS MAY  
HAVE GUESTS USE  
THE CLUB  
FACILITIES**

Members are entitled to have guests use the Club Facilities in accordance with the privileges granted by the member's category of membership and in accordance with the general Club rules. The Club may establish limits from time to time on the amount of guest play, and the Club may impose more restrictive guest privileges, or eliminate guest privileges, for guests of Club Members using the golf courses. The member sponsoring the guest shall be responsible for the payment of the applicable guest fees established by the Club from time to time as well as other Club charges incurred by the guest.

**LEGACY  
MEMBERSHIPS  
OFFER "ROTATION"  
OF MEMBERSHIP  
PRIVILEGES  
AMONG CHILDREN**

For a limited time, terminable without notice by DMP, the following Legacy Program is available to members who currently own a lot at Desert Mountain and to the original Charter Members who, prior to July 1, 1994, closed escrow on the resale of his or her original Desert Mountain lot. If such member buys from DMP a second lot or home at Desert Mountain (a "Legacy Lot"), then the Equity Membership issued in connection therewith shall be a "Legacy Membership," and the holder thereof shall be a "Legacy Member." Legacy Members who own a Legacy Lot at Desert Mountain may designate one of their adult children as the designated user of the membership privileges upon payment of an administrative fee established by the Club and upon approval of the designee. The designee may be changed by the Legacy Member a maximum of one time per calendar year for a reasonable administrative fee to be set from time to time, initially established at \$200. The Legacy Member and his or her immediate family members (other than the designee) shall not have privileges to use the Club Facilities under this Legacy Membership, but shall continue to have voting privileges under this Legacy

Membership while a child is designated to use the Legacy Membership. Upon the death of the Legacy Member, the Legacy Membership automatically passes to the Legacy Member's surviving spouse, if the Legacy member is survived by a spouse, without any additional payment so long as the Legacy Lot passes to the surviving spouse. Upon death of the Legacy Member, if not survived by a spouse, or upon the death of such surviving spouse, an adult child of the original Legacy Member or a qualifying family trust may acquire the Legacy Membership if the child or such trust acquires ownership of the Legacy Lot. To qualify as a family trust for purposes of acquiring the Legacy Membership, the trust's beneficiaries must be limited to one or more children or grandchildren of the original Legacy Member. For so long as an adult child of the original Legacy Member or qualifying family trust holds title to the Legacy Lot, the Legacy Membership may thereafter be transferred among the original Legacy Member's adult children and adult grandchildren subject to the same one-year frequency limitation applicable to redesignations during the lifetime of the original Legacy Member and upon payment of the then-current administrative fee. At such time as the Legacy Lot is no longer owned by such adult child or children of the original Legacy Member or by such qualifying family trust, transferability of the membership shall thereafter be governed by Section II.D of this Membership Plan.

To qualify as a "Legacy Lot" purchaser, the member (other than a qualifying Charter Member described above who previously resold his or her original lot) must already own a lot at Desert Mountain and such lot shall not be listed or offered for sale, or be subject to a pending sale, at the time escrow closes on the Legacy Lot. The Legacy Lot must be purchased directly from DMP, under a contract fully executed no later than December 15, 1994, and title must vest in the Legacy Member, one or more adult children of the Legacy Member, or in a family trust whose beneficiaries are limited to one or more such children or grandchildren. This Legacy Membership opportunity cannot be combined with the "tied lot dual membership" opportunity discussed at pages 2-3, above.

**MEMBERSHIPS  
HELD BY A  
CORPORATION  
OR OTHER  
BUSINESS ENTITY**

Equity Memberships (excluding Legacy Memberships) and the property to which each such membership pertains may be held by partnerships, corporations, or other bona fide business entities. However, only one person and his or her immediate family may be designated to use such Equity Membership. Any other persons or families simultaneously using the Club Facilities will be guests, subject to the guest policy of the Club, and will be charged guest fees. At the time of initial membership application, the entity must notify the Club in writing of the one person having an ongoing significant relationship to the business entity who shall have the right to use the membership. While ownership of stock, or position of officer, director or managing general partner are indicia of a qualifying "significant relationship," the Club retains the right to make such determination on an individual case-by-case basis. If the entity ever ceases to own the subject property in Desert Mountain, and the membership is not transferred through the Club to the next owner as provided in Section II.D.(1), then the membership shall be deemed resigned and placed on the waiting list as hereafter discussed in Section II.D.(2), subject to DMP's option to purchase such resigned membership. If the

ongoing relationship between the entity and the individual designee is terminated or materially changed, then unless the membership is transferred through the Club to a new owner as provided in Section II.D.(1) (or, with the approval of the Club, a new individual designee having a qualifying significant relationship is named and the Club receives 20% of the then-current Membership Contribution at the time of such redesignation), then in such event the membership shall be deemed resigned and placed on such waiting list, subject to DMP's option to purchase such resigned membership.

**LIMITED GOLF  
DUES OPTION**

Future buyers of Desert Mountain property from DMP who acquire a Golf Membership may exercise a one-time option, exercisable at the time of applying for membership, to pay limited golf dues and have limited golf privileges for a period not to exceed five (5) years, commencing upon membership issuance. This limited golf dues option is not transferable to a subsequent owner of the member's property and will only apply to the original member, as the "Limited Golf Member." For Legacy Memberships, this reduced dues option may extend for up to ten (10) years, commencing upon issuance of the Legacy Membership and running consecutively notwithstanding any redesignations or transfers during such period of reduced dues and reduced privileges.

A Limited Golf Member shall have the same privileges and pay the same dues, green fees and other charges as Club Members.

A Limited Golf Member may elect, by written communication to the Club, at any time to forego paying limited dues and, from such time forward, pay full Golf Membership dues and have full Golf Membership privileges restored.

**D. TRANSFER OF EQUITY MEMBERSHIPS**

**TRANSFER OF  
MEMBERSHIP  
THROUGH  
THE CLUB**

Equity Members may not sell their memberships and may transfer their memberships only through the Club. Equity Members who desire to transfer their memberships must give the Club written notice that their memberships are available for reissuance.

If an Equity Member resigns from the Club, the Equity Member may cause his or her resigned membership either to be:

1. transferred through the Club to the next purchaser of his or her home or lot in Desert Mountain (whereupon each such subsequent purchaser shall likewise have the right to transfer the membership to later immediately successive purchasers); or
2. placed on the waiting list to be reissued by the Club on a first-resigned, first-reissued basis as follows:
  - a. Prior to the initial sale of all Equity Memberships in the resigned member's category of membership, every fifth

Equity Membership issued in that category will be a resigned membership from the waiting list.

- b. After the initial sale of all Equity Memberships in the resigned member's category of membership, every membership issued in that category will be a resigned membership from the waiting list.

Whether pursuant to subparagraphs (1) or (2) above, reissuance of a membership shall be subject to acceptance by the Club of the purchaser's membership application. Further, although the reissued membership shall offer substantially comparable privileges as the resigned membership, its specific terms and conditions may vary. A resigning member considering placing his or her membership on the waiting list pursuant to subparagraph (2) above will be doing so with full recognition that, having "broken the chain" of successive membership transfers, there is no guaranty whatsoever that a membership will be available to any future owner of such resigning member's home or lot.

**REPAYMENT OF  
PORTION OF  
MEMBERSHIP  
CONTRIBUTION  
UPON REISSUANCE  
OF EQUITY  
MEMBERSHIP**

A resigned Equity Member is entitled to repayment of a portion of the Membership Contribution only after the membership has been resigned and a substitute membership reissued to a new member who has paid the required Membership Contribution to the Club. The amount to be repaid to the resigned Equity Member shall be eighty percent (80%) of the amount of the Membership Contribution then charged and received by the Club for the membership. The Club will deduct from such repayment any amounts the resigned member owes the Club, and shall remit the balance to the resigning member within 30 days following the date on which the membership is reissued.

**PAYMENT OF DUES  
AND USE OF CLUB  
FACILITIES BY A  
RESIGNED  
MEMBER**

A resigned member shall be required to continue paying dues and will be entitled to use the Club Facilities until the membership is reissued by the Club. Once a membership has been resigned, the membership must be reissued, subject to the every fifth membership issuance procedure described in 2(a) above, when an approved applicant is ready, willing and able to acquire the resigned membership from the Club. Resignation, once made, is not revocable.

**DUES AND OTHER  
FEES WILL BE  
PRORATED WHEN  
THE MEMBERSHIP  
IS REISSUED**

If a membership is reissued during the same membership year in which it was surrendered, the resigned member will be entitled to a refund of a pro-rata portion of any dues and other fees paid in advance, prorated at the end of the month in which the membership is reissued on the basis of one-twelfth of the annual dues per month.

**DMP HAS OPTION  
TO PURCHASE  
RESIGNED  
MEMBERSHIPS**

Until the initial retail sale of all homes or lots in Desert Mountain, DMP has the option (but not the obligation) to purchase any resigned membership for eighty percent (80%) of the then-current Membership Contribution for that category of membership, except DMP's option shall not apply to memberships where the resigning member arranges for the purchaser of his or her home or lot to acquire such membership. Where DMP so exercises its purchase option, the 80% amount

shall be paid in its entirety to the resigning member. DMP may then sell any such membership at any time to any person designated by DMP in its sole discretion, including individuals who do not then own property at Desert Mountain.

**CLUB HAS OPTION  
TO REPURCHASE  
UNRESIGNED  
MEMBERSHIPS  
OF NON-OWNERS**

If an Equity Member sells or transfers his or her property in Desert Mountain and does not resign from the Club, the Club has the option (but not an obligation), exercisable at any time, to repurchase such membership by paying to the Equity Member eighty percent (80%) of the then-current Membership Contribution for that category of membership. This repurchase option shall not apply to continuing use rights, if any, provided for under non-equity memberships or to any memberships sold by DMP to non-owners of property at Desert Mountain. Prior to the Turnover Date (defined in Section VI.E), this option shall be exercisable by DMP; thereafter it shall be exercisable by the new corporation or other business entity then owning the Club Facilities.

### **III. MEMBERSHIP APPLICATION**

**AN APPLICATION  
FOR EQUITY  
MEMBERSHIP  
MUST BE  
SUBMITTED TO  
APPLY FOR  
MEMBERSHIP**

A person desiring an Equity Membership in the Club must submit an Application for Deferred Equity Membership along with a check in the amount of the applicable Membership Contribution. Where the membership is being acquired as an integral part of a lot or home purchase from DMP, the Membership Contribution shall be paid in full as a condition to the close of escrow.

**REVIEW OF  
APPLICATION  
FOR EQUITY  
MEMBERSHIP**

All applicants desiring a membership in the Club are subject to approval by the Club. Upon receipt of the Application for Deferred Equity Membership, the Club will determine whether the applicant has satisfied the relevant conditions of membership. If the applicant has satisfied those conditions, the applicant will be notified in writing that the application has been acted upon favorably.

**MEMBERSHIP  
APPLICATION  
AND APPROVAL  
CONSTITUTES  
AGREEMENT TO  
TERMS OF THIS  
MEMBERSHIP PLAN**

If approved for membership in the Club, the applicant agrees to be bound by the terms and conditions of this Membership Plan and the Club Bylaws and, if an existing member, irrevocably agrees to fully substitute the membership privileges acquired pursuant to this Membership Plan for any present or prior rights in, or to use, the Club Facilities.

### **IV. MEMBERSHIP CONTRIBUTION**

**MEMBERSHIP  
CONTRIBUTION  
REQUIRED TO  
PURCHASE  
AN EQUITY  
MEMBERSHIP**

Persons desiring to become Equity Members of the Club will be required to make the Membership Contribution set forth in the Application for Deferred Equity Membership.

## **V. DUES AND ASSESSMENTS**

**THE MEMBERSHIP  
YEAR OF THE  
CLUB IS  
JANUARY 1 TO  
DECEMBER 31**

The Club's membership year is the twelve-month period commencing January 1 and ending on December 31, unless otherwise established by the Board of Directors from time to time.

**DUES, FEES AND  
CHARGES SET  
PRIOR TO EACH  
MEMBERSHIP YEAR**

The current dues for use of the Club Facilities are described on the current Schedule of Dues and Charges, published by the Club from time to time. Each year the Board of Directors of the Club will determine the amount of dues and other fees to be paid by each member for the next membership year. The amount of dues charged to Club Members shall be no greater than sixty percent (60%) of the amount of dues charged to Golf Members. Through the year 1999, the monthly dues may be increased by the Board of Directors on the basis of any increases in the Consumer Price Index, United States, All Urban Consumers, All Items (1967-100), as published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"), plus any increases in the cost of providing water to the Club's golf courses. If the Index is revised or discontinued at any time, the Board may select a similar index for use in determining increases in the monthly dues. Commencing January 1, 2000, the monthly dues shall be as established from time to time by the Board, taking into account costs of operations, cost of living increases, the level of dues, use fees and other charges at fine clubs throughout the world (while considering comparability of physical facilities and service levels), and such other matters as the Board deems relevant. The Club reserves the right in the future to implement additional use-related fees in a manner then generally consistent with other comparable high quality clubs.

**DUES SHALL BE  
PAYABLE AS  
DETERMINED BY  
BOARD OF  
DIRECTORS**

Dues shall be due and payable monthly in advance, or on such other basis as established by the Board of Directors from time to time. The Club shall not charge any dues or assessments on any Deferred Equity Memberships retained by DMP or reserved by existing members for their Lot purchasers until the membership is issued to a member.

**NO OPERATING  
ASSESSMENTS  
PRIOR TO THE  
TURNOVER DATE**

There will be no assessments for operating deficits occurring prior to the Turnover Date. However, the Board of Directors may find it necessary to make assessments, in addition to dues, to cover any operating deficits which may occur after the Turnover Date.

## **VI. ASSET TRANSFER**

### **A. IN GENERAL**

**TRANSFER OF THE  
CLUB FACILITIES  
TO THE CLUB**

On or before the Turnover Date, DMP shall transfer to the Club title to the existing Club Facilities and, prior to the Turnover Date, will fund the cost of constructing such additional Club Facilities as may be added to the Club from time

to time in DMP's sole discretion. Until such transfer, DMP retains the right to modify the Club Facilities, including, without limitation, golf course boundaries and "routings." Subject to the foregoing, all of the facilities enumerated in the Introduction to this Membership Plan will be included in the Club Facilities to be transferred to the Club on or before the Turnover Date. Additional facilities constructed by DMP prior to the Turnover Date, other than golf courses, clubhouses, or additions to the facilities enumerated in the Introduction will be included in the Club Facilities subject to asset transfer only at the option of DMP. Facilities which could be excluded from the Club Facilities at the Turnover Date are, by way of example, restaurants (unless integrated into a clubhouse) and cottages or other overnight accommodations. Such excluded facilities may, at DMP's option, be owned and operated following the Turnover Date by DMP or other non-Club entity.

## **B. CONSIDERATION FOR TRANSFER OF CLUB FACILITIES**

**DMP HAS  
RETAINED  
ALL REMAINING  
MEMBERSHIPS**

In consideration for DMP's agreement and covenant to transfer the Club Facilities at the Turnover Date, DMP has retained all of the remaining unissued memberships permitted to be issued in the Club as well as the rights to any future memberships which may be issued on account of additional Club Facilities constructed by DMP. These memberships may be sold to persons approved for membership by DMP (without independent approval by any members of the Club), and DMP shall retain the total Membership Contributions from the initial sale of all of the remaining memberships. In addition, DMP shall receive: (i) the book value of all supplies and inventories on hand as of the Turnover Date which are related to the operation of the Club Facilities; plus (ii) the difference between the Membership Contribution paid by the new member and the amount refunded to the resigning member for each reissuance of a membership (including sales of memberships reserved by existing members) prior to the Turnover Date; plus (iii) the proceeds from the Mortgage described below.

## **C. THE MORTGAGE**

**MORTGAGE ON  
TURNOVER DATE**

At any time prior to the Turnover Date, DMP may arrange for one or more loans on behalf of the Club (including, without limitation, a restructuring of any existing financing) secured by a mortgage or deed of trust encumbering the Club Facilities (the "Mortgage"). At the Turnover Date, the Club Facilities will continue to be subject to the Mortgage, subject to the limitations described below, and the Club will assume and pay when due all obligations of the Mortgage. The proceeds of the Mortgage will be retained by DMP or its partners as part of the consideration for the Club Facilities and as material consideration for DMP turning over the operation of the Club. The terms and conditions of the Mortgage will be commercially reasonable at the time the Mortgage is placed on the Club Facilities, as confirmed by a nationally recognized accounting firm selected by DMP. The principal balance outstanding under the Mortgage as of the Turnover Date will be an amount equal to eight times the average annual net operational cash flow from the operation of the Club Facilities during the period of three (3) years

immediately preceding the Turnover Date, provided, however, the principal balance of the Mortgage shall not exceed an amount which, at the applicable interest rate, would have enabled the Club to achieve a debt service coverage ratio of the average annual net operational cash flow over such immediately preceding three-year period to the debt service for the first year of the Mortgage of 1.3 or greater. The net operational cash flow is an amount equal to the excess of revenues over expenses incurred in the operation of the Club Facilities, excluding charges for depreciation, amortization and income taxes, but operating revenues shall include the twenty percent (20%) of the Membership Contribution which is not returned to the resigning member. Operating revenues, for purposes of this calculation, shall also include dues and other membership charges (including minimum food and beverage fees that may then be in effect) that are then due but unpaid. The nationally recognized accounting firm selected by DMP will confirm the average annual net operational cash flow from the operation of the Club Facilities during the three-year period immediately preceding the Turnover Date and that the proposed debt service coverage ratio is at least 1.3. In the event there is no positive net cash flow from the operation of the Club Facilities during the three-year period immediately preceding the Turnover Date, then no mortgage will be placed on the Club Facilities. For purposes of illustrating (but not limiting) the application of the foregoing formula, a hypothetical calculation of the Mortgage is presented in Exhibit "A" attached hereto.

#### **D. OPERATION OF THE CLUB**

**DMP WILL FUND ANY OPERATING DEFICITS UNTIL THE TURNOVER DATE**

Prior to the Turnover Date and while DMP controls the Board of Directors, the Club Facilities will be operated in a manner comparable to other similar country club facilities in the Southwestern United States. Until the Turnover Date, DMP will fund any operating cash flow deficits of the Club and will retain any positive operating cash flow.

**THE CLUB FACILITIES WILL BE MAINTAINED IN GOOD WORKING ORDER**

Prior to the Turnover Date, the Club Facilities will be maintained by DMP at DMP's cost and expense, in reasonably good working order, ordinary wear and tear excepted, taking in account the age and use of the facilities. Subject to the foregoing, the Club entity shall take title to the Club Facilities in their "as is" condition on the Turnover Date and, thereafter, shall be responsible for all ongoing maintenance. In no event shall DMP be responsible for replacing any existing or future Club Facilities, or undertaking extensive reconstruction or renovation of such facilities, as to which certificates of occupancy or other equivalent permits were duly issued by the City of Scottsdale at the time they were originally constructed.

**DMP HAS RIGHT TO DESIGNATE INDIVIDUALS TO USE THE CLUB FACILITIES**

Prior to the Turnover Date, DMP has the right to designate individuals, whether or not employees of DMP, to use the Club Facilities upon the terms and conditions established by DMP from time to time. DMP has the right, both prior to and after the Turnover Date, to use the Club Facilities for the purpose of entertaining prospective purchasers of property in Desert Mountain and memberships in the Club, including resales. After the Turnover Date, these persons shall pay the



same fees as charged to accompanied guests of Golf Members for use of the Club Facilities; provided, however, both prior to and after the Turnover Date, consistent with the historic "Bylaws" of the Club, DMP reserves the right to authorize use of the golf courses, free of green fees, cart rental fees, or other charges, by guests at overnight accommodations at Desert Mountain (including cottages or other overnight accommodations). Such free use is limited to 8 rounds of golf per day for the Cochise, Geronimo and Renegade golf courses, 16 rounds per day for the fourth course and at least 16 rounds per day for any later course (e.g., 40 rounds for four courses), which rounds may be distributed over one or any combination of all such courses open for play to the membership. In addition to the foregoing, the Bylaws provide for additional rounds of golf on Renegade associated with potential golf cottages, which rounds shall also belong to DMP, both before and after the Turnover Date, free of charge.

**DMP HAS RIGHT TO HOLD PROMOTIONAL EVENTS**

DMP has the right, prior to the Turnover Date, to hold marketing and promotional events and tournaments using the Club Facilities as may be determined from time to time by DMP. DMP also has the right to hold THE TRADITION golf tournament at the Club Facilities each year after the Turnover Date to the same extent as the last year prior to the Turnover Date, and without being required to make any payment to the Equity Members or to the Club for such use of the Club Facilities. DMP has the right, both prior to and after the Turnover Date, to promote the Club in advertisements, promotional materials and other promotional media by making reference to the Club and the availability of memberships in the Club.

**E. CONDITIONS PRECEDENT TO TURNOVER OF MANAGEMENT AND CONTROL**

**TURNOVER OF MANAGEMENT AND CONTROL OF THE CLUB FACILITIES TO THE EQUITY MEMBERS**

The turnover of management and control of the Club to the Equity Members (the "Turnover Date") will occur within sixty days after December 31, 2010, or such earlier date as DMP may elect, at its sole option, provided the Club has operated without an operating deficit (i.e., positive net cash flow from the operation of the Club Facilities) for at least twelve months immediately preceding such earlier elected date.

**MEMBERSHIP CONTRIBUTION WILL BE SET BY DMP UNTIL ALL MEMBERSHIPS ARE SOLD**

The Membership Contribution for each unsold membership in the Club shall be set by DMP until the initial issuance by DMP of all memberships in the Club. Until all of the memberships have been issued, the Membership Contribution for memberships which are available for reissuance through the Club shall be equal to the Membership Contribution then currently established by DMP for a previously unsold membership.

**F. HINDERANCE OF TURNOVER**

**DISPOSITION OF CLUB FACILITIES UPON HINDERANCE OF TURNOVER**

If, for any reason, whether by judicial proceeding, action by one or more members, or other factors not attributable to DMP, the turnover of the Club as provided in subsections B, C, D, and E above is prohibited, delayed or otherwise hindered, then, at DMP's election, DMP may dispose of the Club Facilities and

the property of the Club in any manner whatsoever (including, without limitation, conveyance to related entities or assigns or to one or more unrelated parties), subject to the continuing use rights of the members. Upon such election and disposition, the votes of the Equity Members of the Club shall continue to be deemed advisory only.

## **VII. CONTROL OF CLUB OPERATIONS**

**THE BOARD OF DIRECTORS IS RESPONSIBLE FOR THE MANAGEMENT OF THE CLUB**

The Club will be governed by a Board of Directors. The Board of Directors will be responsible for the governance and administration of the affairs and property of the Club and will have the exclusive authority to accept members, set Membership Contributions and dues and charges, establish rules, regulations, policies, procedures and membership guidelines and, in general, control the management and affairs of the Club. The Club may not operate in contravention of the terms and conditions of this Membership Plan. Prior to the Turnover Date, all the members of the Board of Directors will be designated by DMP. In the years following the Turnover Date, all members of the Board of Directors shall be elected by the Equity Members.

**CERTAIN PROVISIONS OF THIS MEMBERSHIP PLAN AND RELATED DOCUMENTS MAY NOT BE AMENDED WITHOUT DMP'S CONSENT**

Following the Turnover Date, for so long as DMP continues to own real property at Desert Mountain, the Club may not, without the prior written consent of DMP, which consent may be withheld in the sole and absolute discretion of DMP, change, modify or delete this Membership Plan (inclusive of any revisions thereto which are then in effect) or any of the Club's organizational documents then in effect, nor may the Club adopt any policies or procedures or take other actions that are discriminatory against DMP and/or DMP's future purchasers of homes or lots. Among other provisions, the foregoing documents provide that DMP shall not have to pay dues or assessments on memberships which DMP holds for issuance to members, that DMP shall be able to sell all of its memberships and that the Club shall cooperate with DMP's efforts to sell such memberships.

## **VIII. ADVISORY BOARD**

**ADVISORY BOARD WILL ACT AS LIAISON**

Prior to the Turnover Date, an Advisory Board will be established. The purpose of the Advisory Board includes fostering good relations between the members and management of the Club and rendering advice on the Club's activities, policies and general Club rules. The Board of Directors will designate all of the members of the Advisory Board. Club management shall meet with the Advisory Board on a periodic basis to discuss the operation of the Club Facilities. The Advisory Board shall have no duty or power to negotiate or otherwise act on behalf of the members of the Club and shall serve only in an advisory capacity until the Turnover Date.

**ADVISORY BOARD LATER WILL BECOME BOARD OF DIRECTORS**

On the Turnover Date, the Advisory Board shall consist of nine members who shall thereupon become the Board of Directors. DMP shall designate three members who shall serve for three years, three members who shall serve for two years and three members who shall serve for one year. Each year afterwards, the

Equity Members will elect three members of the Board of Directors who shall serve for a three-year term.

## **IX. FOUNDER AND ASSOCIATE MEMBERSHIPS**

### **FOUNDER MEMBERSHIPS**

The Club may issue, no later than the Turnover Date, up to twenty-five Founder Memberships to persons designated by DMP. Founder Members shall have the right, exercisable each year, to elect to pay the dues then payable under either of the two categories of Equity Membership and have the same privileges to use the Club Facilities as the Equity Members in that category of membership. Founder Members shall have no voting privileges and will not make any Membership Contributions nor pay any assessments to the Club. Founder Members also may, from time to time, elect an inactive dues status. Founder Members on the inactive list will not be permitted to use the Club Facilities and will not be required to pay dues during the applicable period of inactive status. Founder Memberships do not entitle the holder thereof to any equity or ownership interest in the Club or the Club Facilities. The Founder Memberships shall not be assignable or transferable and shall terminate upon the death of the Founder Member and his or her spouse.

### **ASSOCIATE MEMBERSHIPS**

In order to promote the sale of homes and lots in Desert Mountain and to introduce the Club to prospective members, the Club may issue non-equity, non-voting, non-transferable memberships (the "Associate Memberships") to persons who may or may not own a home or lot in Desert Mountain or currently reside in Desert Mountain. Associate Members will be entitled to the membership privileges and subject to the payment of fees and charges and other terms and conditions as may be determined by the Board of Directors from time to time. Associate Memberships are available on an invitational basis only and may be recalled at the end of any membership year for any reason deemed appropriate by the Club in its sole and absolute discretion. The total number of Associate Golf Memberships permitted to be outstanding in any membership year shall be equal to the total number of Golf Memberships permitted, less the actual number of Golf Memberships hereunder and Regular Memberships under existing membership agreements, which are active at the beginning of such membership year. The total number of Associate Club Memberships permitted to be outstanding in any membership year shall be equal to the total number of Club Memberships permitted, less the actual number of Club Memberships issued hereunder and under existing membership agreements and Sonoran Memberships issued under existing membership agreements which are active at the beginning of such membership year.

## **X. MODIFICATION OF MEMBERSHIP PLAN**

### **DMP MAY AMEND MEMBERSHIP PLAN**

DMP reserves the right prior to the Turnover Date to amend the terms of or make any other changes in this Membership Plan, from time to time, so long as such amendments and changes are not materially adverse to the rights of the then

existing Equity Members of the Club. Amendments or changes which are materially adverse to the rights of the Equity Members must be approved by a majority of the votes eligible to be cast by the Equity Members.

#### **XI. APPLICATION OF CLUB BYLAWS**

##### **THE BYLAWS ALSO APPLY TO EQUITY MEMBERSHIPS**

The Club, at its inception, adopted "Bylaws" which, as amended over time, define and govern all non-equity memberships formulated over the years preceding this Membership Plan. The Bylaws, as amended to date, continue to define and govern such memberships. They also set forth additional information, definitions and governing provisions applicable to Equity Memberships under this Membership Plan and, accordingly, should be consulted by Equity Members as well. In the event of any conflicting terms or provisions between the Bylaws, as amended, and this Membership Plan, this Membership Plan, as amended from time to time as provided above, shall control with respect to Equity Memberships issued pursuant hereto.

**EXHIBIT "A"**  
**TO**  
**DEFERRED EQUITY MEMBERSHIP PLAN**  
**FOR**  
**THE DESERT MOUNTAIN CLUB**

**HYPOTHETICAL CALCULATION OF MORTGAGE AMOUNT**  
**(BASED ON AVERAGE CASH FLOW OF \$1 MILLION/YEAR**  
**FOR 3 YEARS PRIOR TO TURNOVER)**

**Cash Flow Multiplier Test**

Average Annual Net Operational Cash Flow	\$1,000,000
Times: Cash Flow Multiplier	8
Equals: Potential Mortgage Amount (A)	\$8,000,000

**Debt Service Coverage Ratio Test**

Average Annual Net Operational Cash Flow	\$1,000,000
Divided By: Debt Service Coverage Ratio	1.3
Equals: Maximum Annual Debt Service	\$769,231

Interest Rate	9.0%
Mortgage Term in Years	20
Amortization	Monthly
Maximum Mortgage Amount Based on Ratio Test (B)	\$7,124,679

Mortgage Amount - Lesser of (A) or (B)	\$7,124,679
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**Notes:**

- Assumed Average Annual Net Operational Cash Flow is average of three years prior to turnover. Actual cash flow may vary significantly.
- Assumed interest rate, mortgage term and amortization period used are for illustration only. Actual factors may be different.