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OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL

95-0321017 06/05/95 04:05

LILIRH 102 OF 125

**CERTIFICATE OF AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
EAGLE MOUNTAIN**

This Certificate of Amendment to Declaration of Covenants, Conditions and Restrictions for Eagle Mountain (the "Amendment") is made effective as of the 28th day of April, 1995, by EAGLE MOUNTAIN INVESTORS, L.L.C., an Arizona limited liability company ("Declarant").

**RECITALS**

A. A Declaration of Covenants, Conditions and Restrictions for Eagle Mountain (the "Declaration") was recorded on February 7, 1995, as Instrument No. 95-0070250, in the official records of Maricopa County, Arizona.

B. Pursuant to Section 14.2 of the Declaration, the Declarant, as the Owner of all of Eagle Mountain, is authorized to amend the Declaration.

NOW, THEREFORE, the Declaration is amended as follows:

1. Section 6.1 is hereby deleted in its entirety and replaced with the following:

Section 6.1 Owners of Lots and Parcels.  
Declarant, and each Owner of a Lot or Parcel which is subject to assessment pursuant to Article 7 hereof, shall be a Member of the Master Association. Each such Membership shall be appurtenant to and may not be separated from ownership of the Parcel or Lot to which the Membership is attributable and joint ownership or ownership of undivided interests in any real property which establishes a Membership shall not cause there to be more Memberships than the number established for purposes of this Section 6.1. The number of Memberships in

the Master Association appurtenant to each Lot or Parcel shall be determined as follows:

(a) Each Owner of a Lot shall have: (i) one (1) Membership for each Lot until the date that is six (6) months after recordation of the subdivision plat or declaration of condominium for the subdivision in which the Lot is situated; (ii) two (2) Memberships for each Lot from the date which is six (6) months after recordation of the subdivision plat or declaration of condominium for the subdivision in which the Lot is situated until a certificate of occupancy or equivalent permit is issued for any Dwelling Unit situated on the Lot; and (iii) three (3) Memberships for each Lot from and after the date the certificate of occupancy or equivalent permit is issued for any Dwelling Unit situated on the Lot.

(b) Each Owner of a Parcel the use of which is limited by a Tract Declaration to Apartment Development Use, shall have: (i) one (1) Membership for each 14,520 gross square feet contained in the Parcel until a certificate of occupancy or equivalent permit is issued for any building located on the Parcel; and (ii) three (3) Memberships for each 14,520 gross square feet contained in the Parcel from and after the date a <sup>Unofficial Document</sup> certificate of occupancy or equivalent permit is issued for any building located on the Parcel. Tenants and Lessees shall not be Members of the Master Association.

(c) Unless otherwise provided in the applicable Tract Declaration, each Owner of a Non-Residential Parcel shall have: (i) one (1) Membership for each 14,520 gross square feet contained in the Non-Residential Parcel owned by such Owner until a certificate of occupancy or equivalent permit is issued for any building located on the Parcel; and (ii) three (3) Memberships for each 14,520 gross square feet contained in the Parcel after the certificate of occupancy is issued for any building located on the Parcel.

(d) Each Owner of a Parcel the use of which is limited by a Tract Declaration to Single Family Residential Use, Residential Condominium Development Use, Cluster Residential Use or similar residential uses (but specifically excluding Apartment Development Use), shall have one (1) Membership for each Lot permitted upon the Parcel by the applicable Tract Declaration. At such time as a subdivision

plat or other instrument creating Lots is Recorded covering all or part of the Parcel, the Memberships attributable to the Lots shall be determined as set forth above, and the number of Memberships held by the Owner, as Owner of the remainder of the unplatted portion of the Parcel, if any, shall be equal to the number of Lots permitted by the Tract Declaration minus the number of Lots included within the Recorded plat. All Memberships attributable to the Parcel (as opposed to the Lots) shall cease when the land area ceases to be a Parcel because all of the area in the Parcel has been platted or otherwise dedicated to the public.

(e) Unless otherwise described above, the number of Memberships held by an Owner of a Parcel shall be equal to the result obtained by dividing the total number of square feet of real property in the Parcel by 14,520 gross square feet; however, if the result is not a whole number, then the total number of Memberships shall be equal to the result rounded to the nearest whole number.

Dedication of portions of the Parcel for public rights-of-way or similar purposes shall not result in the reduction of the number of Memberships attributable to a Parcel; rather, such Memberships shall be attributed to the portion of the Parcel not constituting Exempt Property on a fair and equitable basis as determined by the Board. Except as set forth above, the exercise by a governmental entity of the power of eminent domain or condemnation of a Parcel or a substantial portion of a Parcel shall result in the reduction of Memberships attributable to such Parcel for so long as such portion remains Exempt Property, such reduction to be determined by the Board based on the gross square footage of the real property taken by eminent domain or condemnation.

2. The second sentence of Section 6.3(a)(ii) is hereby deleted and replaced with the following:

"At the time of any vote by the Members of the Master Association, Declarant shall be entitled to nine (9) votes for each Class B Membership held by Declarant."

3. Section 7.13 of the Declaration is hereby deleted in its entirety and replaced with the following:

Section 7.13 Declarant Not Subject to Assessment.  
Notwithstanding any other provision of this Declaration to the contrary, only for so long as Declarant holds any Class B Memberships, no Assessment shall be levied against Lots and Parcels owned by Declarant. However, for so long as Declarant holds any Class B Memberships, Declarant shall subsidize the Association annually for the difference between (a) the cost of operating and administering the Association (exclusive of all costs associated with all Special Service Areas) and (b) the total amount of Annual Assessments levied against Lots and Parcels owned by Owners other than Declarant. In calculating the amount of any Special Service Area Assessment or any Special Assessment to be levied against a Lot or Parcel, the Board shall allocate all applicable Special Service Area Expenses only against Lots and Parcels not owned by Declarant.

4. The first sentence of Section 14.2(a) is deleted and replaced with the following:

"This Declaration may be amended by Recording with the County Recorder of Maricopa County, Arizona, a Certificate of Amendment, duly signed and acknowledged by an officer of the Association, and by Declarant<sup>Unofficial Document</sup> if, at the time of such amendment, Declarant owns a Lot or Parcel."

5. Section 15.9 is hereby deleted in its entirety and replaced with the following:

Section 15.9 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board, to be given to any Owner, then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if written notice of such action or meeting is addressed and sent to each Member entitled to vote at his address as it appears in the books of the Association (or if no such address appears, at his last known address). This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

6. Except as expressly amended by this Amendment, all other provisions of the Declaration shall remain in full force and effect. Capitalized terms used in this Amendment without definition shall have the meanings given to such terms in the Declaration.

7. The undersigned hereby certifies that this Amendment has been duly approved and adopted as required by Section 14.2 of the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Amendment as of the day and year first above written.

**DECLARANT:**

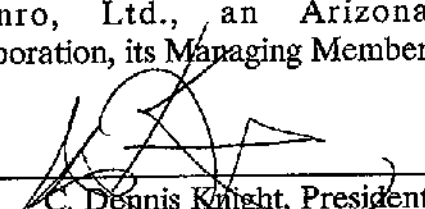
**EAGLE MOUNTAIN INVESTORS, L.L.C., an Arizona limited liability company**

By: Denagon EM Properties, L.L.C., an Arizona limited liability company, its Manager

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

By: Denro, Ltd., an Arizona corporation, its Managing Member

Unofficial Document

By:   
C. Dennis Knight, President

**ASSOCIATION:**

**EAGLE MOUNTAIN COMMUNITY ASSOCIATION, an Arizona non-profit corporation**

By:   
Mark A. Voigt, President

STATE OF ARIZONA            )  
  ) ss.  
County of Maricopa            )

The foregoing instrument was acknowledged before me this 15 day of May, 1995, by C. Dennis Knight, the president of Denro, Ltd., an Arizona corporation, the Managing Member of Denro Interests, L.L.C., an Arizona limited liability company, the Manager of Denagon EM Properties, L.L.C., an Arizona limited liability company, the Manager of EAGLE MOUNTAIN INVESTORS, L.L.C., an Arizona limited liability company, for and on behalf thereof.

Melissa Marie Karl  
Notary Public

My Commission Expires:

11-13-98



STATE OF ARIZONA            )  
  ) ss.  
County of Maricopa            )

Unofficial Document

The foregoing instrument was acknowledged before me this 15 day of May, 1995, by Mark A. Voigt, the president of Eagle Mountain Community Association, an Arizona non-profit corporation, for and on behalf thereof.

Melissa Marie Karl  
Notary Public

My Commission Expires:

11-13-98



