

When recorded, return to:
Everest Holdings, LLC
7337 E. Doubletree Ranch Rd.
Suite C-185
Scottsdale, Arizona 85258

AMENDMENT NO. 1 TO DEVELOPMENT AGREEMENT

This Amendment No. 1 To Development Agreement (“**Amendment**”) is made effective only as of the close of escrow for the Quailwood Meadows Property by Everest (“**Close of Escrow**”), by and among the Town of Prescott Valley, a municipal corporation of Arizona (“**Town**”); John B. Rouwenhorst and Deborah Rouwenhorst, husband and wife (“**Rouwenhorsts**”); and Everest RFC, Inc., an Arizona corporation (“**Everest**”).

RECITALS

- A. On April 10, 2003, the Town (along with the Prescott Valley Water District, a community facilities district of Arizona according to Arizona Revised Statutes §48-701 et seq., subsequently dissolved on March 13, 2008 and absorbed by the Town), entered into a development agreement pursuant to ARS §9-500.05 with Empire Land, LLC (“**Empire**”), Rouwenhorsts, and entities related to the Fain family as land owner, recorded in the office of the Yavapai County Recorder on July 29, 2003 at 3610971, Book 4057, Page 21 (“**Development Agreement**”) which, among other things, provided for annexation, zoning and development of approximately 420 acres (“**Quailwood Meadows**”).
- B. In the course of developing Quailwood Meadows, Empire (and/or related entities) entered into deeds of trust, assignments of rent, and security agreements with Central Pacific Bank, a Hawaii banking corporation, Keybank National Association, a national banking association, Preferred Bank, a California banking corporation, Tomatobank, N.A., a national banking association, and East West Bank, a California banking corporation, as successor in title to United Commercial Bank, a California banking corporation (collectively “**CPB**”), and Wells Fargo Bank, N.A., successor by merger to Wachovia Bank National Association, a national banking association, in its capacity as administrative agent for certain lenders (“**Wells Fargo**”) to secure development loans for groups of residential lots in Quailwood Meadows.

- C. On April 25, 2008, Empire and related entities filed a petition for Chapter 11 bankruptcy protection in U.S. Bankruptcy Court, Central District of California, Riverside Division (6:08-14592 MJ). On December 8, 2008, said bankruptcy was changed to a Chapter 7 liquidation.
- D. On August 13, 2008, Wells Fargo obtained an order from the bankruptcy court granting its motion for relief from the bankruptcy stay relative to its secured collateral including undeveloped residential lots owned by Empire or related entities in units IV and VII and the Townhomes in Quailwood Meadows, some or all of which eventually became part of the Receivership Estate as set forth in that certain order dated December 17, 2010, by the California Superior Court (Contra Costa County, C-10-02905) in Wells Fargo Bank, N.A., as agent for certain lenders, v. Prestige Homes, L.P., et. al. (“**Estate**”) by and through the court-appointed Receiver Ron Groeneveld of Paladin Asset Preservation and Management, Inc.
- E. On January 6, 2009, CPB obtained an order from the bankruptcy court granting its motion for relief from the bankruptcy stay in order to foreclose its interests in undeveloped residential lots owned by Empire or related entities in units IV, V, VI and VIII in Quailwood Meadows (“**CPB Lots**”). CPB subsequently foreclosed on its interests on March 9, 2009.
- F. Based on a June 15, 2009 application to the bankruptcy court, the bankruptcy trustee abandoned from the bankruptcy estate the Estate and the CPB Lots (together “**Quailwood Meadows Property**”). The abandonment appears to have been effective July 1, 2009.
- G. In accordance with ARS §9-500.05(D) and Section 14 of the Development Agreement, CPB and the Estate are successors-in-interest to Empire (and its related entities) on which the benefits and burdens of the Development Agreement are binding.
- H. Everest has now entered into agreements with CPB and the Estate to purchase (either immediately or over time) the Quailwood Meadows Property. In furtherance of the commitments set forth in said purchase agreements, CPB and the Estate shall fully assign, transfer and convey to Everest (and Everest shall fully assume from CPB and the Estate) as of the Close of Escrow all of their respective rights, title, interests and obligations under and in the Development Agreement (in accordance with Section 15 of said Development Agreement), upon terms and conditions set forth in the assignment between and among CPB, the Estate, Everest and the Town (“**Assignment**”).
- I. Pursuant to Section 1 of the Development Agreement, the term of the Development Agreement expires on April 10, 2015.
- J. The parties desire to extend the term of the Development Agreement to June 30, 2030, subject to the recordation and effectiveness of the Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Subject to the recordation and effectiveness of the Assignment in the Official Records of Yavapai County, Arizona (“**Condition Precedent**”), the term of the Development Agreement is hereby extended to June 30, 2030. In the event the foregoing Condition Precedent is not satisfied, then this Amendment shall be of no force or effect.

2. Subsection 10.1 is hereby amended to replace the addresses for notices, filings, demands or other communications with the following:

TOWN: Town of Prescott Valley
7501 East Civic Circle
Prescott Valley, Arizona 86314
Attn: Town Manager

with a copy to: Town of Prescott Valley
7501 East Civic Circle
Prescott Valley, Arizona 86314
Attn: Town Attorney

ROUWENHORSTS: _____

EVEREST: c/o Everest Holdings, LLC
7337 E. Doubletree Ranch Road, Suite C-185

Scottsdale, Arizona 85258
Attn: C. Joseph Blackburn

with a copy to: Biskind Hunt, PLC
11201 N. Tatum Blvd., Suite 330
Phoenix, Arizona 85028
Attn: Geoffrey D. Semro, Esq.

3. The Town represents and warrants to Everest that, as of the effective date of this Amendment, the Development Agreement is in full force and effect and is valid and enforceable in accordance with its terms, as amended hereby.

4. Except as specifically amended hereby (subject to the satisfaction of the Condition Precedent and the provisions of the Assignment), the Development Agreement shall remain in full force and effect in accordance with its original terms.

5. This document may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Amendment to be effective as of the date first appearing above.

EXECUTED as of the date first set forth above.

Town

Everest

TOWN OF PRESCOTT VALLEY,
ARIZONA, a municipal corporation of
Arizona

EVEREST RFC, INC., an Arizona corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

Rouwenhorsts

John B. Rouwenhorst and Deborah
Rouwenhorst, husband and wife

By: _____
Name: _____

By: _____
Name: _____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by _____, the

