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FIRST SERVICE TITLE AGENCY, INC.

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
WARNER RANCH 4

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR
WARNER RANCH 4

TABLE OF CONTENTS

		PAGE
ARTICLE 1	DEFINITIONS	1
1.1	"Annexable Property"	1
1.2	"Annual Assessments"	1
1.3	"Architectural Committee"	1
1.4	"Articles"	1
1.5	"Assessments"	1
1.6	"Association"	2
1.7	"Association Rules"	2
1.8	"Board"	2
1.9	"Bylaws"	2
1.10	"Common Area"	2
1.11	"Common Expenses"	2
1.12	"Declarant"	2
1.13	"Declaration"	3
1.14	"Dwelling Unit"	3
1.15	"Eligible Mortgage Holder"	3
1.16	"First Mortgage"	3
1.17	"Lot"	3
1.18	"Maximum Annual Assessment"	3
1.19	"Member"	3
1.20	"Mortgage"	3
1.21	"Mortgagee"	3
1.22	"Occupant"	3
1.23	"Owner"	4
1.24	"Person"	4
1.25	"Phase"	4
1.26	"Property"	4
1.27	"Record", "Recording", "Recorded" and "Recordation"	4
1.28	"Single Family"	4
1.29	"Special Assessments"	4
1.30	"UDC Homes"	4

ARTICLE 2	PROPERTY RIGHTS	5
ARTICLE 3	MEMBERSHIP AND VOTING RIGHTS	5
	3.1 Votes of Owners of Lots	5
	3.2 Declarant	5
	3.3 Voting Classes	6
	3.4 Right to Vote	6
	3.5 Members' Rights	6
	3.6 Transfer of Membership	6
ARTICLE 4	MAINTENANCE	7
	4.1 Association's General Responsibilities	7
	4.2 Maintenance of Owner's Structures	8
	4.3 Publicly-Dedicated Areas	8
	4.4 No Discrimination	8
ARTICLE 5	INSURANCE AND FIDELITY BONDS; CASUALTY LOSSES	8
	5.1 Insurance to be Obtained by the Association	8
	5.2 Insurance to be Obtained by the Owners	12
	5.3 Casualty Losses	13
ARTICLE 6	ANNEXATION OF ADDITIONAL PROPERTY; DEANNEXATION <small>Unofficial Document</small>	14
	6.1 Reservation of Certain Annexation Rights	14
	6.2 Limitations on Other Annexations	14
	6.3 FHA and VA Approval	15
	6.4 Recordation of Annexation Instrument	15
	6.5 Effect of Annexation	15
	6.6 No Obligation to Annex	15
	6.7 De-Annexation	16
ARTICLE 7	RIGHTS AND OBLIGATIONS OF THE ASSOCIATION	16
	7.1 Common Area	16
	7.2 Personal Property and Real Property for Common Use	16
	7.3 Rules and Regulations	17
	7.4 Availability of Books, Records and Other Documents	17
	7.5 Audited Financial Statements	17
	7.6 Implied Rights	18
	7.7 Board of Directors and Officers	18

ARTICLE 8	ASSESSMENTS	18
8.1	Creation of Assessment Right	18
8.2	Covenants with Respect to Assessments	18
8.3	Lien for Assessments; Foreclosure	18
8.4	Dates Assessments Commence	19
8.5	Computation of Assessments; Annual Budget	19
8.6	Due Dates	20
8.7	Maximum Annual Assessment	20
8.8	Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments	21
8.9	Special Assessments	22
8.10	Certificates	22
8.11	Surplus Monies	22
8.12	Declarant's Obligation for Deficiencies	22
8.13	Common Expenses Resulting from Misconduct	22
ARTICLE 9	ARCHITECTURAL STANDARDS; ARCHITECTURAL COMMITTEE	23
9.1	Appointment of Architectural Committee; Standing to Enforce	23
9.2	Jurisdiction of the Architectural Committee; Promulgation of Standards	23
9.3	Submission and Review of Plans	24
9.4	Obligation to Obtain Approval	24
9.5	Changes to Interiors of Dwelling Units or Other Structures	25
9.6	Other Approvals; Liability	25
9.7	Fee	25
9.8	Inspection	26
9.9	Waiver	26
9.10	Appeal to Board	26
9.11	Nonapplicability to Declarant	26
9.12	Landscaping	26
ARTICLE 10	USE RESTRICTIONS AND OTHER COVENANTS, CONDITIONS AND EASEMENTS	27
10.1	Residential and Recreational Purpose	27
10.2	Garages and Driveways	27
10.3	Temporary Structures	27
10.4	New Construction	27
10.5	Signs	27

10.6	Heating, Ventilating and Air Conditioning	
	Units	28
10.7	Solar Collecting Panels or Devices	28
10.8	Antennas, Poles, Towers and Dishes	28
10.9	Basketball Goals or Similar Structures	29
10.10	Tanks	29
10.11	Vehicles	29
10.12	Underground Facilities	29
10.13	Outdoor Burning	30
10.14	Sanitation	30
10.15	Fences, Interferences and Obstructions	30
10.16	Nuisance	31
10.17	Drainage Alteration; Easements	31
10.18	Clothes-Drying Facilities	31
10.19	Pets	31
10.20	Leasing; Obligations of Tenants and Other Occupants	31
10.21	Storage and Tool Sheds or Structures	32
10.22	Landscaping and Maintenance	33
10.23	Roof Materials	33
10.24	Encroachments	33
10.25	Easement for Annexable Property	34
10.26	Miscellaneous	34
ARTICLE 11	PARTY WALLS	34
	Unofficial Document	
11.1	General Rules of Law to Apply	34
11.2	Repair and Maintenance	34
11.3	Sharing of Repair and Maintenance	35
11.4	Consents to Modification	35
ARTICLE 12	GENERAL PROVISIONS	35
12.1	Term	35
12.2	Amendment	36
12.3	Indemnification	37
12.4	Easements for Utilities	37
12.5	No Partition	38
12.6	Severability; Interpretation; Exhibits; Gender	38
12.7	Perpetuities	38
12.8	Enforcement	38
12.9	Property Held in Trust	39
12.10	FHA/VA Approval	39
12.11	Notices to Certain Mortgage Holders, Insurers or Guarantors	39

12.12	Dissolution or Termination of the Association or Legal Status of the Property	40
12.13	Amendments Requested by Governmental Agency	40
12.14	Number of Days	40
12.15	Right to Use Similar Name	40
12.16	Temporary Sign Easement	40
12.17	Notice of Violation	41
12.18	Disclaimer of Representations	41
12.19	Declarant's Rights	41
12.20	Amendments Affecting Declarant Rights	42
12.21	References to VA and FHA	42
12.22	Amendments to Articles and Bylaws	43

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
WARNER RANCH 4

This Declaration of Covenants, Conditions and Restrictions is made as of the 30th day of October, 1992, by DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, as "Declarant," with reference to the following:

A. As of the date hereof, Declarant is the owner of fee title to the Property.

B. Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property within the Property. Declarant desires to provide a flexible (yet common) and reasonable procedure for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property now and hereafter subjected to this Declaration and which shall be binding on all parties having any right, title or interest in said real property or any part thereof, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of all or any part thereof.

ANNEX 1
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DEFINITIONS

Except as otherwise expressly provided in this Declaration, the following terms shall, for purposes of this Declaration, have the meanings set forth below:

1.1 "Annexable Property" shall mean any and all real property any part of which is located within two (2) miles of the property described on Exhibit A hereto.

1.2 "Annual Assessments" shall mean those Assessments designated as such in this Declaration and computed and levied as provided in Section 8.5.

1.3 "Architectural Committee" shall mean the committee established pursuant to Article 9.

1.4 "Articles" shall mean the articles of incorporation of the Association, as the same may be amended from time to time in accordance with the provisions thereof and with the applicable provisions of this Declaration, the Bylaws and the statutes and regulations of the State of Arizona.

1.5 "Assessments" shall mean the Annual Assessments and the Special Assessments (as well as any other amounts declared by this Declaration to be a part of the Assessments or declared by this Declaration to be secured by the lien created under Section 8.3).

1.6 "Association" shall mean Warner Ranch 4 Association, an Arizona non-profit corporation, and its successors and assigns.

1.7 "Association Rules" shall mean the reasonable rules and regulations adopted by the Association pursuant to Section 7.3.

1.8 "Board" shall mean the board of directors of the Association elected in accordance with the provisions of the Articles, the Bylaws and the statutes and regulations of the State of Arizona.

1.9 "Bylaws" shall mean the bylaws of the Association, as the same may be amended from time to time in accordance with the provisions thereof and with the applicable provisions of this Declaration, the Articles and the statutes and regulations of the State of Arizona.

1.10 "Common Area" shall mean all real property (including the improvements thereto), all easements and licenses, and all personal property and facilities owned by the Association for the common use and enjoyment of the Owners.

1.11 "Common Expenses" shall mean the actual and estimated expenses of operating the Association (including any reasonable reserves), of exercise by the Association of its rights hereunder and of fulfillment by the Association of its duties and obligations imposed hereby, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration or pursuant to the Articles or the Bylaws.

1.12 "Declarant" shall mean ^{Unofficial Document} DMB Property Ventures Limited Partnership, a Delaware limited partnership ("DMB"), and its successors and assigns, subject to the further provisions of this Section 1.12. UDC Homes has an option (the "Option") to acquire Lots from DMB, pursuant to a written option agreement, a memorandum of which has been Recorded at Recorder's No. 92-0393319, records of Maricopa County, Arizona (the "Option Memorandum"). For so long as DMB owns fee title to any Lot and the Option has not expired or been terminated (other than because of UDC Homes' acquisition over time of all of the Lots): (a) UDC Homes shall have and exercise all of the rights, privileges, duties and obligations of Declarant under this Declaration, including without limitation the right to cast all votes held by Declarant pursuant to this Declaration, the Articles or the Bylaws; (b) all Lots owned by DMB (or any affiliate of DMB, or any trustee for the benefit of DMB or any such affiliate) together with all Lots owned by UDC Homes (or any trustee for the benefit of UDC Homes) shall be deemed to be owned by Declarant for purposes of this Declaration, including without limitation for purposes of determining the number and Class of votes appurtenant to such Lots; and (c) UDC Homes shall not assign, transfer, convey or encumber, whether voluntarily, involuntarily, by operation of law, merger, consolidation, reorganization or otherwise, any rights, privileges, duties or obligations of the Declarant under this Declaration, or any right or obligation of UDC Homes hereunder to enjoy, exercise, fulfill or perform any such rights, privileges, duties or obligations of the Declarant, without the written consent of DMB, as evidenced by a Recorded instrument executed by DMB (provided that DMB shall promptly execute and deliver to UDC Homes for Recording a consent to any such assignment or transfer made to, and in connection with UDC Homes' assignment or transfer of rights with respect to the Option to, a "UDC Permitted Transferee" in compliance with the provisions of Section 30 of the option agreement more particularly described in the Option Memorandum). At such time as UDC Homes shall have purchased all of the Lots, UDC Homes shall

thereupon be and become the Declarant hereunder and shall automatically succeed to all rights, privileges, duties and obligations of the Declarant hereunder. If, instead, the Option shall expire or terminate (other than because of UDC Homes' acquisition over time of all of the Lots), all rights and obligations of UDC Homes to have and exercise the rights, privileges, duties and obligations of the Declarant shall thereupon cease and revert to and be vested in DMB and DMB's successors and assigns, and thereafter UDC Homes shall be deemed a Class A Member only as to each Lot of which UDC Homes is an Owner. Except as expressly provided in this Section 1.12, and subject to the provisions of this Section 1.12, any assignment of the rights and duties of Declarant shall be evidenced by a duly executed and acknowledged Recorded instrument executed by the assigning Declarant which expressly makes such assignment.

1.13 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

1.14 "Dwelling Unit" shall mean any building or part thereof situated upon a Lot and intended for use and occupancy as a residence by a Single Family.

1.15 "Eligible Mortgage Holder" shall mean any holder (as evidenced by a Recorded instrument) of a First Mortgage who or which shall have made written request to the Association for notice of any proposed action that, pursuant to Section 12.2 or Section 12.11, requires the consent of a specified percentage of Eligible Mortgage Holders (which written request must contain the name and address of the Eligible Mortgage Holder and the Lot number or street address of the Lot against which the First Mortgage held by said Eligible Mortgage Holder is Recorded).

1.16 "First Mortgage" shall mean ^{Unofficial Document} a Mortgage Recorded against a Lot which has priority over all other Mortgages Recorded against that Lot.

1.17 "Lot" shall mean and refer to a lot into which any part of the Property is subdivided as set forth in a subdivision plat now or hereafter Recorded with respect to all or any part of the Property. For purposes of this Declaration, a Lot shall be deemed to come into existence on and as of the date the plat depicting and establishing such Lot is Recorded. In no event shall the term "Lot" mean or refer to all or any part of the Common Area.

1.18 "Maximum Annual Assessment" shall mean the amount determined for each fiscal year of the Association in accordance with Section 8.7.

1.19 "Member" shall mean any Person entitled to membership in the Association, as provided in this Declaration.

1.20 "Mortgage" shall mean a deed of trust, as well as a mortgage, which, in either case, is Recorded against a Lot.

1.21 "Mortgagee" shall mean a beneficiary under a deed of trust, as well as a mortgagee under a mortgage, which, in either case, is Recorded against a Lot.

1.22 "Occupant" shall mean any Person other than an Owner who occupies or is in possession of a Lot, whether as a lessee under a lease or otherwise.

1.23 "Owner" shall mean the Person or Persons who individually or collectively own fee title to a Lot (as evidenced by a Recorded instrument), provided that Declarant (and not the fee title holder) shall be deemed to be the "Owner" of each Lot with respect to which fee title is held by a trustee (other than the trustee of a deed of trust) for the benefit of Declarant, and provided further that the provisions of this Section 1.23 shall be subject to the provisions of Section 1.12. The term "Owner" shall not include: (i) any Person who holds an interest in a Lot merely as security for the performance of an obligation; or (ii) a lessee, tenant or other Occupant of a Lot. Notwithstanding the foregoing, a Person who holds fee title to a Lot solely as a trustee under a deed of trust pursuant to Chapter 6.1 of Title 33 of the Arizona Revised Statutes shall not be deemed to be the "Owner" of such Lot; instead, for purposes of determining the "Owner" of such Lot in accordance with this Section, the trustor under such deed of trust shall be deemed to hold fee title to such Lot.

1.24 "Person" means a natural person, corporation, partnership, trustee or other legal entity.

1.25 "Phase" shall mean: (a) any one of the groups of Lots within the Property specified on Exhibit B hereto; or (b) in the case of any additional property hereafter annexed to the Property pursuant to Article 6 of this Declaration, any one of the groups of Lots designated as a "phase" in the Recorded instrument effecting such annexation in accordance with Article 6. In the event that the Recorded instrument effecting any such annexation does not divide the particular property being annexed into Phases, then such property shall be deemed to constitute a single Phase for purposes of this Declaration. The numbers or letters (or numbers and letters) assigned to Phases are and shall be for reference only and shall not control the order or timing of development or sale of Lots within any Phase or from Phase to Phase.

1.26 "Property" shall mean the ^{Unofficial Document} real property described on Exhibit A hereto, and shall further refer to such additional property, if any, as may hereafter be annexed thereto pursuant to Article 6 or as is now or may hereafter be owned in fee simple by the Association, but shall not include real property, if any, which is deleted and removed from the Property pursuant to Section 6.7.

1.27 "Record", "Recording", "Recorded" and "Recordation" shall mean placing or having placed an instrument of public record in the official records of Maricopa County, Arizona, or of such other governmental authority, office or official with which or whom the applicable laws of the State of Arizona prescribe that documents affecting title to real property in the area including the Property are to be placed of public record.

1.28 "Single Family" shall mean a group of persons related by blood, marriage or legal adoption, or a group of not more than three unrelated persons maintaining a common household.

1.29 "Special Assessments" shall mean those Assessments levied in accordance with Section 8.9.

1.30 "UDC Homes" shall mean and refer to UDC Homes, Inc., a Delaware corporation, and, subject to the limitations on assignment, transfer, conveyance and encumbrance set forth in Section 1.12, shall also include its successors and assigns. From and after the date when UDC Homes shall have purchased all of the Lots, the term "UDC Homes" shall also be deemed to include, in

addition to UDC Homes, Inc., and its successors and assigns ("UDC"), any other Person or Persons controlling, controlled by or under common control with UDC.

ARTICLE 2

PROPERTY RIGHTS

Every Owner shall have a non-exclusive right and easement of enjoyment in, to and over the Common Area, subject to any restrictions or limitations contained in this Declaration or in any Recorded instrument conveying to the Association or subjecting to this Declaration such property, and subject further to the Association Rules. Any Owner may assign his, her or its right of enjoyment to (and share the same with) the members of his or her household and assign the same to and share the same with his, her or its tenants and invitees subject to the provisions of this Declaration and to reasonable regulation by the Board and otherwise in accordance with such procedures as the Board may adopt. An Owner who leases his, her or its Lot shall be deemed to have delegated such Owner's rights and easements under this Article 2 to the lessee of such Lot for the term of such lease.

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS

3.1 Votes of Owners of Lots. Every Owner of a Lot automatically shall be a Member of the Association and shall remain a Member for so long as such ownership continues. Except as provided in Section 1.12, each Owner's membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot to which the membership is attributable. In the event any Lot is owned by two or more Persons, Unofficial Document whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member but the membership as to such Lot shall be joint, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board shall either: (a) make such designation, in which event such designation shall be binding for all purposes; or (b) declare that until all Persons who together hold such membership jointly make such written designation, the vote(s) attributable to such membership under this Declaration shall not be cast or counted on any questions before the Members; provided, however, that if any one of such Persons casts a vote representing a certain Lot without objection from any other Person sharing ownership of such Lot, that Person will thereafter be conclusively presumed to be acting with the authority and consent of all other Persons sharing ownership of such Lot unless and until objection thereto is made to the Board, in writing. Notwithstanding the foregoing, so long as the Class B membership is in existence, no Class B Member shall at the same time be a Class A Member nor shall a Class B Member have any Class A votes, and the membership and number of votes of the Class B Member(s) shall be determined in accordance with Subsection 3.3.2. Subject to Subsection 3.3.1, each Owner (other than Declarant, so long as the Class B membership is in existence) shall have one vote for each Lot owned by such Owner.

3.2 Declarant. Declarant shall be a Member of the Association for so long as it holds a Class A or Class B membership.

3.3 Voting Classes. The Association shall have two classes of voting Members.

3.3.1 Class A. Class A Members shall be all Owners except Declarant (until the conversion of Declarant's Class B membership to Class A membership as provided below). Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, a Class A Member shall have the number of votes provided in Section 3.1; and

3.3.2 Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Lot owned by such Member. Subject to Section 1.12, Declarant shall have the right, at any time and from time to time, to assign all or any part of its voting rights appurtenant to its Class B membership (as well as all or any other rights appurtenant thereto) to one or more Persons acquiring, for purposes of development and sale, any part of the Property. Further, Declarant shall have the right, at any time and from time to time, to designate an individual or individuals to exercise Declarant's voting rights (whether appurtenant to Class A or Class B membership), provided, however, that such designation shall not act as an assignment by Declarant of its membership or voting rights hereunder. Subject to the provisions of Article 6 below, the Class B membership automatically shall cease and be converted to a Class A membership upon the happening of the first of the following events:

(a) the date which is 90 days after the date upon which the total number of votes of the Class A Members equals the total number of votes of the Class B Member;

(b) the date which is ten (10) years after the date this Declaration is Recorded;

or

(c) the date on which ^{Unofficial Document} Declarant Records a written notice electing to convert the Class B membership to Class A membership (provided, however, that so long as DMB owns fee title to any Lot, a written notice Recorded pursuant to this Subsection 3.3.2(c) shall not be effective to convert the Class B membership to Class A membership unless such written notice is also executed by DMB).

3.4 Right to Vote. No change in the ownership of a Lot shall be effective for voting purposes until the Board receives written notice of such change together with satisfactory evidence thereof. The vote for each Member must be cast as a single unit. Split or fractional votes shall not be allowed. Any Owner of a Lot which is leased or which is subject to a valid, outstanding and Recorded executory agreement of sale may, in the lease, agreement of sale or other written instrument, assign the voting right appurtenant to the Lot to the lessee thereof or to the purchaser thereof under such agreement of sale, as applicable, provided that a copy of the written assignment of such voting rights is furnished to the Secretary of the Association prior to any meeting at which such lessee or purchaser seeks to exercise such voting right.

3.5 Members' Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws, the Association Rules and any other rules and regulations adopted pursuant to any of the foregoing.

3.6 Transfer of Membership. Except as otherwise provided in this Declaration, the rights, duties and obligations of a Class A Member cannot and shall not be assigned, transferred,

pledged, conveyed or alienated in any way except upon transfer of ownership of such Class A Member's Lot and then only to the transferee thereof. Such transfer may be effected by deed, intestate succession, testamentary disposition, foreclosure or other legal process authorized under Arizona law, shall operate to transfer the membership appurtenant thereto to the new Owner and any attempt to make any other form of transfer shall be void.

ARTICLE 4

MAINTENANCE

4.1 Association's General Responsibilities. The Association shall maintain and keep in good repair the Common Area (and certain other areas, as more expressly provided in this Section 4.1), and the costs of such maintenance shall be Common Expenses of the Association (subject to any insurance then in effect and subject to Section 4.5). This maintenance shall include, but not be limited to:

4.1.1 maintenance, repair and replacement of all landscaping and other flora, structures and improvements situated upon the Common Area;

4.1.2 maintenance, repair and replacement of landscaping and flora in or upon public rights-of-way immediately adjacent to the exterior boundaries of the Property, and of any perimeter or boundary walls on or surrounding the exterior boundaries of the Property;

4.1.3 maintenance, repair and replacement of landscaping and signs within areas designated on one or more subdivision plats or ^{Unofficial Document} other instruments Recorded by, or bearing the written approval of, Declarant (or, after termination of the Class B membership, the Association) with respect to all or portions of the Property as "landscape easements," "landscape and wall easements" or "landscape and sign easements" (or similar designations) to be maintained by the Association;

4.1.4 maintenance, repair and replacement of the side facing a street or portion of the Common Area of any boundary or perimeter wall situated within areas designated on one or more subdivision plats or other instruments Recorded by, or bearing the written approval of, Declarant (or, for subdivision plats Recorded after termination of the Class B membership, the Association) with respect to the Property as "wall easements" (or similar designations) to be maintained by the Association; and

4.1.5 maintenance and repair of any drainage easements upon or across the Common Area.

Notwithstanding anything to the contrary in the foregoing, except where otherwise provided in an instrument Recorded by, or bearing the written approval of, Declarant, the Association shall be responsible for maintaining the side of any boundary wall facing a public street or roadway (or a private street or roadway owned by the Association), while the Owner of a Lot shall be responsible for maintaining the side of any boundary wall facing such Owner's Lot. For purposes of the preceding sentence a "boundary wall" shall be any wall or fence separating a Lot from a public street or roadway adjacent to or along the exterior perimeter boundaries of Warner Ranch 4 or adjacent to or along a major arterial street or roadway (whether public or owned by the Association) within Warner Ranch

4 if, in the case of a wall within Warner Ranch 4, such wall is designed as a "common" or "theme" wall presenting a uniform appearance along its length.

4.2 Maintenance of Owner's Structures. Each Owner shall be responsible for the maintenance, cleaning, painting, repair and general care of all structures existing or constructed upon such Owner's Lot and, in particular, each Owner shall cause the exterior of said structures to be maintained in good condition and repair and in an attractive state consistent with general community standards within the Property. In the event that the Board shall determine, after providing reasonable notice and an opportunity to be heard, that any Owner is in breach of such Owner's obligations under the preceding sentence, the Board shall promptly give such Owner written notice of such determination, including a reasonably detailed list or description of the repairs, maintenance or other work required to cure such Owner's breach, and in the event the Owner shall not have cured such breach within thirty (30) days after the date of said written notice, the Association may, in the discretion of the Board, cause the repairs, maintenance or other work to be performed so as to cure such Owner's breach, and the costs of doing so, together with interest from the date of expenditure at the rate set forth in Section 12.8, shall be the personal obligation of such Owner and shall constitute a lien on such Owner's Lot, which lien shall have the priority and may be enforced in the manner described in Section 8.3, the Association shall also have standing and authority to request that a court of competent jurisdiction compel such Owner to cure such breach, and to the extent not inconsistent with an order of such court, the Association may pursue either or both of the courses of action described in this sentence. The Association shall have an easement on, over, across and through each Lot to permit it to carry out its duties and obligations under this Article 4.

4.3 Publicly-Dedicated Areas. Except as expressly provided in this Article 4 (and, in particular, in Subsection 4.1.2), and except ^{as may} _{Unofficial Document} otherwise be required by applicable law, the Association shall have no responsibility to maintain any areas within the Property (including, but not limited to, public streets) which are dedicated to or the responsibility of a municipality or other governmental entity.

4.4 No Discrimination. The provision of services in accordance with this Article shall not be deemed to be discrimination in favor of or against any Owner.

ARTICLE 5

INSURANCE AND FIDELITY BONDS; CASUALTY LOSSES

5.1 Insurance to be Obtained by the Association.

5.1.1 Hazard Insurance.

(a) The Board, acting on behalf of the Association, shall obtain and maintain at all times insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, casualties and risks embraced within the coverage of the standard "extended coverage" policy available from time to time in the State of Arizona, against all other perils customarily covered for similar types of projects (including those covered by the standard "all risk" endorsement available from time to time in the State of Arizona), and against loss or damage due to

vandalism and malicious mischief. Said insurance shall be in an amount equal to 100% of the current replacement cost, from time to time, without deduction for depreciation, of all such insurable improvements (excluding land, foundations, excavations and other items usually excluded from such insurance coverage, but including fixtures and building service equipment and personal property and supplies owned by the Association), with such amount to be redetermined annually (and upon the subjection of any portion, or all, of the Annexable Property to the effect of this Declaration if such subjection results in an addition to the Common Area of property upon which are situated improvements required to be insured hereunder) by the Board with the assistance of the insurer or insurers providing such coverage.

(b) The policy or policies providing the insurance required by this Subsection 5.1.1 shall provide that: (i) any insurance trust agreement shall be recognized; (ii) the insurer shall waive any right of subrogation against the Owners, the Board or the Association, and their respective agents, tenants, servants, employees, guests and household members; (iii) such insurance shall not be cancelled, invalidated or suspended by reason of any acts or omissions of any Owner (or of such Owner's invitees, agents, tenants, servants, employees, guests or household members), or of any member, officer or employee of the Board without a prior written demand to the Board that any such act or omission be cured and without providing a sixty (60) day period within which the Board may cure such act or omission (or cause the same to be cured); (iv) such insurance coverage shall be primary, and shall in no event be brought into contribution with any insurance maintained by individual Owners, their Mortgagees or other lien holders; and (v) the coverage afforded by such policy or policies shall not be prejudiced by any act or omission of any Owner or Occupant (or their agents) when such act or omission is not within the control of the Association.

(c) The policy or policies providing the insurance required by this Subsection 5.1.1 shall also contain (if available Unofficial Document at no additional cost or at such additional cost as is not demonstrably unreasonable) the following endorsements (or their equivalents): (i) "agreed amount" and "inflation protection" endorsements; (ii) "increased cost of construction" endorsement; (iii) "contingent liability from operation of building laws or codes" endorsement; (iv) "demolition cost" endorsement; and (v) "current replacement cost" endorsement.

(d) The policy or policies providing the insurance required by this Subsection 5.1.1 shall also contain a steam boiler and machinery endorsement providing coverage in an amount not less than the lesser of \$2,000,000 or the insurable value of the building(s) housing such boiler and machinery, if any.

(e) Unless a higher maximum deductible amount is required by applicable law, each policy providing the insurance coverage required by this Subsection 5.1.1 shall provide for a deductible not to exceed the lesser of \$10,000 or one percent (1%) of the face amount of such policy.

5.1.2 Liability Insurance. The Board, acting on behalf of the Association, shall obtain and maintain at all times a comprehensive general liability policy insuring the Association, each member of the Board, each Owner and each Declarant Designee (as defined below), against any liability to the public or to any Owner or Occupant (and such Owner's or Occupant's invitees, agents, employees, tenants, guests, servants and household members) for death, bodily injury and property damage arising out of or incident to the ownership or use of the Common Area or arising out of or

incident to the performance by the Association of its maintenance and other obligations hereunder. The Board, with the assistance of the insurer(s) providing such coverage, shall review annually the amounts of coverage afforded by said comprehensive general liability policy or policies and adjust such amounts of coverage as the Board deems appropriate, but in no event shall said policy or policies provide coverage less than One Million Dollars (\$1,000,000.00) for death, bodily injury and property damage for any single occurrence. The policy or policies providing such insurance shall, by specific endorsement or otherwise, preclude denial by the insurer(s) providing such insurance of a claim under such policy or policies because of negligent acts or omissions of the Association, any Owner(s) or any Declarant Designee(s) or any other Person named as an insured or additional insured thereunder. For purposes of this Subsection 5.1.2 (and Subsection 5.1.7), the term "Declarant Designee" shall mean Declarant and, so long as Declarant or any affiliate of Declarant, or any Person with whom Declarant or any such affiliate contracts directly for the performance of all or a substantial portion of Declarant's rights and obligations hereunder, or for the construction of substantial improvements on the Property, retains an interest in the Property or any Lot, such affiliate and such other Person, if identified by Declarant to the Association, provided that any added premium cost or other expense resulting from naming Declarant, such affiliate or such other Person as insureds shall be borne by Declarant, such affiliate or such other Person.

5.1.3 Flood Insurance. In the event any part of the Common Area is in a "special flood hazard area," as defined by the Federal Emergency Management Agency (or its successors), the Board, acting on behalf of the Association, shall obtain (and maintain at all times during which any part of the Common Area is in such a "special flood hazard area") a "master" or "blanket" policy of flood insurance covering all insurable improvements on the Common Area and covering any personal property situated from time to time within such improvements (to the extent such personal property is normally covered by the standard flood insurance policy available from time to time in the State of Arizona). Said insurance shall be in an amount not less than the lesser of: (a) 100% of the current replacement cost, from time to time, of all such insurable improvements (and such insurable personal property) located in the "special flood hazard area"; or (b) the maximum coverage available for such insurable improvements and insurable personal property under the National Flood Insurance Program. Unless a higher maximum deductible amount is required by applicable law, the policy providing such insurance shall provide for a deductible not to exceed the lesser of \$5,000 or one percent (1%) of the face amount of such policy.

5.1.4 General Provisions Governing Insurance. The insurance required to be obtained under Subsections 5.1.1, 5.1.2 and 5.1.3 shall be written in the name of the Association as trustee for each of the Owners and for each Mortgagee (as their respective interests may appear) and shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with one or more companies authorized to provide such insurance in the State of Arizona;
- (b) Exclusive authority to adjust losses under policies in force on property owned or insured by the Association shall be vested in the Board;
- (c) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners,

Occupants or their Mortgagees or other lienholders, and the insurance carried by the Association shall be primary;

(d) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for a waiver of subrogation by the insurer as to any claims against the Board or the Owners and their respective tenants, servants, agents, employees, guests and household members;

(e) Each policy providing insurance coverage required by Subsections 5.1.1, 5.1.2 and 5.1.3 shall require the applicable insurer to give not less than ten (10) days written notice to the Association, and to each Mortgagee which shall have given such insurer written notice of such Mortgagee's interest in a Lot (which notice must include the name and address of such Mortgagee), of any cancellation, refusal to renew or material modification of such policy; and

(f) To the extent reasonably available, each policy providing insurance coverage required by Subsections 5.1.1, 5.1.2 and 5.1.3 shall contain a waiver by the applicable insurer of its rights to repair and reconstruct instead of paying cash.

5.1.5 Fidelity Bonds. The Board, acting on behalf of the Association, shall obtain and maintain at all times adequate fidelity bond coverage to protect against dishonest acts on the part of officers, directors and employees of the Association and all others who handle, or are responsible for handling, funds held or administered by the Association, whether or not such officers, directors, employees or others receive compensation for services they render to or on behalf of the Association. Any independent management agent which handles funds for the Association shall also obtain (and pay for) such fidelity bond coverage with respect to its own activities (and those of its directors, officers and employees, whether or not such directors, officers or employees receive compensation for services rendered). Such fidelity bonds: (a) shall name the Association as obligee; (b) shall be issued by one or more companies authorized to issue such bonds in the State of Arizona; and (c) shall be in an amount sufficient to cover the maximum total of funds reasonably expected by the Board to be in the custody of the Association or such agent at any time while such bond is in force, but in no event shall the amount of such fidelity bond coverage be less than the sum of three (3) months' Annual Assessments on all Lots, plus the total of funds held in the Association's reserves. Each such fidelity bond shall provide that the issuer thereof shall provide not less than ten (10) days written notice to the Association and to each Eligible Mortgage Holder before such bond may be cancelled or substantially modified for any reason.

5.1.6 Workers' Compensation Insurance. The Board, acting on behalf of the Association, shall obtain and maintain workers' compensation insurance if and to the extent necessary to meet the requirements of applicable law.

5.1.7 Cost of Insurance. All premiums for the insurance or bonds required to be obtained by the Board by this Section 5.1 shall be Common Expenses (except that, as provided in Subsection 5.1.5, the cost of the fidelity bond required to be furnished by any independent management agent shall be paid by such agent, and, as provided in Subsection 5.1.2, any added cost of naming Declarant, or any other Declarant Designee, shall be borne by Declarant or such other Declarant Designee). The Board shall not be liable for failure to obtain or maintain any of the insurance coverage required by this Section 5.1, or for any loss or damage resulting from such failure,