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**DECLARATION OF
COVENANTS, CONDITIONS,
AND RESTRICTIONS
FOR
CENTER HILL TOWNHOMES
Kaysville, Utah**

11-891-0001 thru 0006

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This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CENTER HILL TOWNHOMES ("Declaration") is adopted by the FLINT INVESTMENT, LLC dba HAWKS HOMES, HOA ("Association") and is effective as of the date it is recorded in the office of the Davis County Recorder.

RECITALS

- A. This Declaration of Covenants, Conditions and Restrictions for Center Hill Townhomes is adopted to: (1) clarify and define the rights of the Association and the Owners, is and to the Project, (2) conform to changes to the Utah Community Association Act and other Utah law, (3) provide for a general plan for managing the Project, and (4) in furtherance of the effort to efficiently and economically provide a quality living environment and protect and enhance the value of the Project.
- B. This Declaration, which (along with and subject to any future amendments) shall be the sole declaration for the Project.
- C. This Declaration affects the real property situated in Davis County, Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated in this Declaration by reference (the "Project") and shall be binding on all parties having or acquiring any right, title, or interest to the Project or any part thereof.
- D. The Bylaws of the Association are attached hereto as Exhibit B.
- E. The undersigned hereby certifies that this Amended and Restated Declaration was approved by Owners holding at least sixty-seven percent (67%) of the total votes of the Association. The undersigned also certifies Kaysville City has approved this Declaration.
- F. This Declaration shall be filed and recorded now, but as long as ownership remains 100% in the name of one (1) owner, the HOA shall be inactive. In the event someone other than Declarant owns one (1) or more lots, the HOA shall become active and operate as required herein.

NOW THEREFORE, pursuant to the Recitals set forth above and incorporated herein and subject to the covenants set forth below the Association hereby adopts this Declaration. This Declaration, together with the Plat, Bylaws, and Rules adopted by the Association, shall define and govern the rights of the Owners and the Association related to the Project.

ARTICLE I. DEFINITIONS

1.1. **Act** shall mean the Utah Community Association Act, codified beginning at §57-8a-107, Utah Code Annotated, as the same may be amended from time to time

1.2. **Architectural Review Committee or ARC** shall mean and refer to the Board or, if so appointed by the Board, a committee having architectural control powers as further described in Article X.

1.3. **Articles** shall mean the Articles of Organization for the Association, as amended and restated from time to time.

1.4. **Assessments** shall mean any charge imposed or levied by the Association against Owners including but not limited to Annual Assessments corresponding with the Common Expenses as well as Special Assessments, Individual Assessments, late fees, and fines, all as provided in this Declaration.

1.5. **Association** shall mean and refer to Flint Investments, LLC, dba Hawk Homes. Failure of the Association to maintain its status will not result in the dissolution of the Association. The Association Board may renew or reinstate its status without Owner approval.

1.6. **Board or Board of Directors** shall mean and refer to the Board of Directors of the Association as duly elected in accordance with the terms and conditions of the Articles and Bylaws. The Board is the governing body of the Association.

1.7. **Board Member** shall mean a duly qualified and elected or appointed individual member of the Board of Directors of the Association.

1.8. **Bylaws** shall mean and refer to the Bylaws of the Association as the same may be amended from time to time.

1.9. **Common Areas** shall mean all land, and the improvements situated thereon, within the Project that are designated as open space or Common Areas on the Plat or other recorded instrument and other real property which the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee.

1.10. **Common Expenses** shall mean all sums lawfully assessed against Owners including expenses of administration, maintenance, management, operation, repair and replacement of the Common Areas, which are maintained by the Association.

1.11. **Declaration** shall mean and refer to this *Declaration of Covenants, Conditions, and Restrictions for Center Hill Townhomes*, as may be amended from time to time.

1.12. **Design Guidelines** shall mean the requirements governing the location, color, materials, and architectural design of Residences, structures, landscaping and improvements within the Project.

1.13. **Governing Documents** shall mean and refer to the Declaration, Articles, Bylaws, Plat, and any Rules adopted by the Board.

1.14. **Lot** shall mean and refer to each of the individual lots within the Project, as shown on the Plat, with the exception of the Common Areas.

1.15. **Manager** shall mean a person, persons, or entity, if any, selected by the Board to manage the affairs of the Association and Project.

1.16. **Member** shall mean and refer to a Lot Owner.

1.17. **Occupant** shall mean and refer to any Person, other than an Owner, living or staying in a Residence. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives living or staying in a Residence

1.18. **Owner or Lot Owner** shall mean and refer to the record owner, whether one or more Persons of a fee simple title to any Lot which is a part of the Project, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

1.19. **Person** shall mean a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity capable of holding title to real property.

1.20. **Plat** shall mean all of the official subdivision plats of Center Hill Townhomes, and any amendments thereto, filed and recorded in the official records of the Davis County Recorder's Office.

1.21. **Project** shall mean the Center Hill Townhomes and shall include the real property legally described in Exhibit A together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.22. **Residence** shall mean an attached or detached structure, which is designed and intended for use and occupancy as a townhome, together with all improvements located on the Lot, which are used in connection with such Residence.

1.23. **Restrictions** shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

1.24. **Rules** shall mean the rules, resolutions, regulations, policies, architectural guidelines, etc. adopted by the Board.

1.25. **Lot** shall mean one of the numbered Lots within the Project identified on the Plat designed and intended for a dwelling.

1.26. **Single Family Residence** shall mean a townhome structure, which is designed and intended for use and occupancy as a townhome residence, together with all improvements located on the Lot, which are used in connection with such Residence.

ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission.** The Project and all real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association and each Owner, including their respective heirs,

successors, and assigns.

2.2. **Name.** The Project, as submitted to the provisions of this Declaration, shall be known as the Center Hill Townhomes.

2.3. **Description of Improvements.** The improvements contained in the Project will be located upon the real property described in Exhibit A the major improvements contained in the Project include Residences. Streets and other improvements are detailed on the Plat. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements on the Project.

2.4. **Common Areas.** The Common Areas of the Project shall be as identified on the Plats.

2.5 **Registered Agent.** The Registered Agent of the Association shall be as provided in the entity filings with the Utah State Department of Commerce, Division of Corporations and Commercial Code. The Board may change the Registered Agent without Owner vote or approval.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

3.1. **Membership.** Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot, and then only to the new Owner.

3.2. **Voting Rights.** Except as otherwise disallowed in this Declaration or the Bylaws, Owners shall be entitled to one (1) vote per Lot owned.

3.3. **Multiple Ownership Interests.** In the event there is more than one Owner of a particular lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast by any of such Owners, whether in person or by proxy or by written ballot, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made or if there are conflicting votes from the same lot, the vote involved shall not be counted for any purpose other than to determine whether a quorum exists.

3.4. **Record of Ownership.** Every Owner shall promptly file the conveyance document (or in the case of contract buyer, a copy of the sales contract) for his Lot with a Board Member or the Manager of the Association who shall maintain a record of ownership of the Lots.

3.5. **Proxies.** An Owner may give his proxy, either specific or general, to another Owner, a third person, or to a contract purchaser of his Lot to vote on all matters coming before the Association for vote provided the same is in writing.

ARTICLE IV. PROPERTY RIGHTS IN COMMON AREAS

4.1. **Easement of Enjoyment.** Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee, or contract purchaser who resides on such Member's Lot.

4.2. **Title to Common Areas.** The Association shall hold the title to the various Common Areas within the Project.

4.3. **Limitation on Easement.** A Member's right and easement for the use and enjoyment of the Common Areas shall be subject to the following:

a) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

b) The right of Kaysville City and any other governmental or quasi- governmental body having jurisdiction over the Project to access and rights of ingress and egress over and across any street, parking area or open area contained within the Project for purposes of providing police and fire protection and providing any other governmental or municipal service;

c) The right of the Association to suspend voting rights and right to use the Common Areas by an Owner for any period during which any Assessments against his Lot remain unpaid, and for a period not to exceed sixty (60) days for any infraction of the Rule;

4.3. **Association Easement.** The Association, its Board, the Manager, employees, agents, and contractors shall have non-exclusive easements to use the Common Areas and access Lots as needed to perform their duties as assigned by the Governing Documents.

4.4. **Easement for Utility Services.** The Project is subject to a blanket easement over, across, above, and under it for Ingress, egress, installation, maintenance, repair, and replacement of roads and utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable.

4.5. **Compliance with Restrictions and Rules.** Each Owner and Occupant shall comply with the Restrictions imposed by this Declaration. Further, each Owner, Occupant and guest shall fully and faithfully comply with the Association's Rules and Restrictions.

ARTICLE V. BUDGET AND ASSESSMENTS

5.1. **Annual Budget.** The Board shall prepare and adopt an annual budget for the Association. The annual budget shall provide, without limitation for the maintenance of the Common Areas and for the administration, management, and operation of the Association. The Board may revise the budget from time

to time, as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted.

5.2. **Covenant to Pay Assessments.** Each Owner of a Lot by the acceptance of a deed therefor, whether or not it be so expressed in the deed, hereby covenants and agrees with each other and with the Association to pay to the Association all Assessments, including without limitation, all Annual, Special, and Individual Assessments described below, and other fees, charges, levies, and fines as may be provided in the Governing Documents.

5.3. **Purpose of Assessments.** Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project, including but not limited to the appearance and aesthetics of the Project.

5.4. **Annual Assessments.** Annual Assessments shall be made on a calendar year basis. Annual Assessment increases greater than twenty-percent (20%) from the prior year shall be approved by a majority of Owners in attendance, in person or by proxy, at a duly called Member meeting. The Board shall give written notice of each Annual Assessment no later than 30 days following the annual budget meeting. Each Annual Assessment shall be due and payable in monthly installments on the first day of each month, unless the Board makes a different payment arrangement. At least fifteen (15) days prior to the effective date of any change in the amount of the Annual Assessment, the Association shall give each Owner written notice of the amount.

5.5. **Special Assessments.** The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments: the cost of any reconstruction or unexpected repair or replacement of the Common Areas: or for any other expense incurred or to be incurred as provided in this Declaration except for new capital improvements further described in Section 6.4(6) below. Special Assessments over two hundred dollars per Lot (\$200) in a calendar year must be approved and assented to by a majority of the Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners.

5.6. **Individual Assessments.** In addition to Annual and Special Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for:

(a) Administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his/her Occupants:

(b) Costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his/her Occupants:

(c) Any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Lot and its Owner into compliance with the Governing Documents:

(d) Nonpayment of a "Reinvestment Fee";

(e) Costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines and other charges relating thereto as provided in this Declaration. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any improvements to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged.

5.7. **Allocation of Assessments.** Except for Individual Assessments, the Regular Annual Assessments and Special Assessments shall be fixed at a uniform rate for all Lots, unless otherwise provided in the Governing Documents.

5.8. **Application of Excess Assessments.** In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may apply the excess to reserves, credit the excess against future Assessments, or pay the excess to the Owners, as the Board deems appropriate.

5.9. **No Offsets.** All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount or withholding of any amount shall be permitted for any reason.

5.10. **Certificate Regarding Payment.** Upon the request of an Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

5.11. **Personal Obligation and Lien.** All Assessments, together with any interest, late fees, collection costs, and attorney fees if collection efforts become necessary shall be, constitute and remain:

(a) A charge and continuing lien upon the Lot with respect to which such Assessment is made: and

(b) The personal obligation of the person who is the Owner of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorney fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

5.12. **Billing and Collection Procedures.** The Board shall have the right to adopt Rules setting forth procedures for billing and collection of Assessments, provided that such procedures are not inconsistent with the provisions hereof.

5.13. **Due Date and Delinquency.** Assessments shall be paid in a timely manner. Payments are due in advance on the first day of the month or the first day of such other period established for the payment of Assessments. Payments are delinquent if received more than ten (10) days from the date that they became due.

5.14. **Collection Charge.** If the Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply. Delinquent accounts may be charged a twenty-five dollar (\$25) late fee each month until the Owner's account (including all collection charges, costs, and attorney fees) is paid in full. Interest may also accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection charges, interest, and late fees shall constitute part of the assessment lien provided above until paid.

5.15. **Collection Action at Law.** The Association may exercise any or all of the following remedies to collect delinquent Assessments:

a) The Association may suspend such Owner's voting rights.

The Association shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Assessment or installment thereof is delinquent, the Association, by and through its Board or any Manager, may file a notice of lien in the deed records of *Kaysville City, Utah*, against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Owner by the Association until such amounts are fully paid. The Association through its duly authorized agents, may bid on the lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot

b) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against the Lot Owner without foreclosing or waiving the lien described above. Recovery on any such action however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

c) If a delinquent Owner is leasing his Lot or any portion thereof, the Board may at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.

d) Payments shall be credited first to collection costs (including attorney fees) then to interest and late fees, then to the oldest assessments, then the most recent assessments.

5.16. **Power of Sale.** The Association shall have all rights of foreclosure granted by the Act both judicially and non-judicially. Pursuant to Utah Code §57-1-20 and §57-8a-302, an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot in trust with power of sale, to the Association's attorney of record, as trustee, for the benefit of the Association, for the purpose of securing payment of Assessments under the terms of this Declaration. The Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

5.17. **Reserve Account** The Board shall establish a reserve account to fund long- term maintenance and replacement of Common Areas. The Board shall follow any statutory requirements to conduct a reserve analysis and utilize such reserve analysis in making decisions regarding the funding of a Reserve Account. The Board shall not be personally liable for failure to fund the reserve unless willful or intentional misconduct is proven in a court of law.

5.18. **Reimbursement of Tax Collection by Kaysville City and Other Tax Collecting Entities.** It is recognized that under the Declaration that the Association will own the Common Areas, which may obligate it to pay property taxes or other fees to Kaysville City. Each Owner shall be required to reimburse the Association for its prorated share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration.

ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION

6.1. **Organization of Association.** The Association shall serve as the governing body for all Owners. The Association shall make provisions for the maintenance, repair, replacement, administration, and operation of the Common Area and Common Expenses, and other matters as provided in this Declaration, and the Bylaws. The Association shall have all rights and powers granted to it under the Articles, and the Bylaws. The Association shall not be deemed to be conducting a business of any kind and all funds received by the Association shall be held and applied by it for the Owners in accordance with this Declaration, the Articles, and the Bylaws. Except as specifically authorized in this Declaration, the Articles or the Bylaws, no Owner or group of Owners shall have authority to take any action on behalf of the Owners, the Association, or the Board.

6.2. **Legal Organization.** The Association may be organized as a limited liability company. In the event the L.L.C. status expires or is invalidated in any manner, the Board in its sole discretion may renew the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

6.3. **General Powers and Obligations.** The Association shall have, exercise, and perform the following powers, duties, and obligations:

- 1) The powers, duties, and obligations granted to the Association by this Declaration, its Bylaws, and the limited liability company;
- 2) The powers and obligations of a limited liability

company pursuant to the general laws of the State of Utah;

3) The powers, duties, and obligations of a homeowner's association;

4) The powers, duties, and obligations not reserved specifically to Lot Owners;

5) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Project.

6) The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein accompanied by any necessary changes in the Articles of Creation or Bylaws of the Association.

6.4. **Specific Powers and Duties.** The powers and duties of the Association shall include, without limitation, the following:

1) **Maintenance and Services.** The Association shall provide maintenance and services for the Project as provided in this Declaration.

2) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration, or the Bylaws of the Association. The Association shall have no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.

3) **Rulemaking.** The Association, through its Board, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project.

4) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article V of this Declaration.

5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association. Owners, Occupants, guests, and family members shall be jointly and severally liable for any fines incurred for violations of the Governing Documents.

6) **Capital Improvements.** New capital improvements to the Project that do not exceed ten thousand dollars (\$10,000) may be authorized by the Board of Directors alone. New capital improvements in excess of ten thousand dollars (\$10,000) require the approval of a majority of Owners in attendance, whether by person or by proxy, at a duly called Member meeting. The maintenance, repair, and replacement of existing Common Areas are not considered a new capital improvement.

7) **Title to Common Areas.** The Association shall hold title to all Common Areas conveyed to it by its developer and pay all real property taxes and assessments levied upon any portion of the Common Areas, unless paid by the Owners, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

8) **Employment of Agents, Advisers, and Contractors.** The Association may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project. Any agreement with a Manager shall not exceed a term of two (2) years.

9) **Litigation.** The Board may instigate litigation to enforce the provisions of this Declaration or any other Common Law or statutory right, which the Association is granted. Other than litigation required for the collection of past due Assessments, the Association shall not commence any litigation without prior approval of a majority of the Members, if the litigation is expected to exceed the cost of fifteen thousand dollars (\$15,000) either in attorney fee expenses or in costs (including any expert reports).

10) **Shared Use of Open Space.** An easement for use of the Association's open space shall be granted by the Association as a benefit and right appurtenant to Lot Owners and their successors, heirs, assign, lessees, and tenants subject to provisions of this Declaration or other Governing Documents.

6.5. **Liability.** A Board Member or an officer of the Association shall not be liable to the Association or any Member for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for willful or intentional misconduct. If a Board Member or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law, except where the Board Member or officer is found by a court of law to have acted with willful or intentional misconduct in carrying out his/her duties.

6.6. **Board of Directors.** The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. Board Members shall be elected pursuant to the provisions set forth in the Bylaws, which may set forth requirements for serving on the Board. Without limiting the generality of the foregoing, the Board may appoint one or more "Committees".

6.7. **Registration with the State.** In compliance with Utah Code §57-8a-105, the Association shall be registered with the Utah Department of Commerce and shall update its registration to keep any required information current as required by law.

ARTICLE VII. MAINTENANCE

7.1. **Association Maintenance.** The Association shall maintain, repair, and replace all Common Areas together with all improvements thereon and all easements appurtenant to the Common Area including, but not limited to landscaping on the Common Area open space land and the park facilities. The Common Areas and all facilities and structures thereon shall be maintained by the Association in a safe condition and in a good and workmanlike manner such as to carry out the purpose for which such areas are intended. The Association shall have no obligation to perform any exterior maintenance and/or repair of any part of a Lot or landscaping installed by an Owner without the Association's express agreement to maintain such landscaping.

7.2. **Services.** The Association may contract for such services as the Board of Directors may reasonably deem to be of benefit to the Project, including, without limitation: landscaping, snow removal, and garbage/trash removal services for all Lots.

7.3. **Lot Maintenance.** Each Owner shall have the obligation to provide exterior and interior maintenance of their Lot and Residence, including but not limited to painting, repair, replacement and care of all Residence components, driveways, and utility lines servicing the Lot or Residence. Owners shall be responsible to maintain, repair, and replace any fences located within or on the boundaries of their Lot. When such fences serve, benefit, or otherwise mark a boundary of two or more Lots, the responsibility and cost to maintain, repair, and replace the shared portion of such fences shall be borne equally by all Lot Owners bounded thereby. Owners are responsible for the removal of snow from their driveways and sidewalks within or appurtenant to the Owner's Lot. These maintenance obligations shall be fulfilled so each Lot and Residence is clean, tidy, and in good repair as determined by the ARC, subject to any Design Guidelines and other Rules.

7.4. **Owner Maintenance Neglect.** An Owner who fails to maintain his/her Lot or Residence as required by the Governing Documents and Design Guidelines is subject to enforcement action by the Association as provided in this Declaration or applicable law.

7.5. **Common Area Maintenance Caused by Owner Negligence.** If the need for maintenance or repair of Common Areas or Limited Common Area as specified herein is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests, tenants, or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair work shall be added to and become an Individual Assessment (as set forth in Article V above) to which such Lot is subject.

7.6. **Common Area Maintenance.** If Common areas are not maintained to Kaysville City standards, the City may make necessary repairs or maintenance and charge the cost of such work to the Association.

ARTICLE VIII. INSURANCE

NOTICE: The Association's insurance policy does not cover Owner or Occupants' personal property and contents of their Residence, nor the personal liability of Owners or their Occupants.

8.1. **Insurance.** The Board shall obtain insurance as required in this Declaration, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of, or in addition to embedded, included coverage, or endorsements to other policies. Insurance premiums shall be a Common Expense.

8.2. **Property Insurance.** Owners of Lots are responsible to provide property insurance covering their Residences and Lots. The Association shall maintain a blanket policy of property insurance covering the Common Area. The Association may maintain broader coverage if afforded by the insurance contract.

(a) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in Common Areas or otherwise permanently part of or affixed to Common Areas.

(b) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

(c) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

(d) The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost and (2) a Replacement Cost Endorsement under which the

Insurer agrees to pay up to one hundred percent (100%) of the Project's insurable replacement cost but not more. If the policy includes a coinsurance clause it must include an Agreed Amount Endorsement, which must waive or eliminate the requirement for coinsurance.

(e) Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "inflation

Guard Endorsement," if available, and (ii) "Building Ordinance or Law Endorsement," (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction.

(f) The Association shall set aside an amount equal to the amount of the Association's property insurance deductible or, if the policy deductible exceeds \$10,000, an amount not less than \$10,000.

8.3. Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain Severability of Interest Endorsement or equivalent coverage, which would preclude the insurer from denying the claim of an Owner because of the negligence, acts of the Association or another Owner.

8.4. Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy shall:

- (1) Include coverage for volunteers and employees,
- (2) Include coverage for monetary and non-monetary claims,
- (3) Provide for the coverage of claims made under any' fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and
- (4) Provide coverage for defamation. In the discretion of the Board the policy may also include coverage for any Manager and any employees of the Manager and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.

8.5. Insurance Coverage for Theft and Embezzlement of Association Funds. The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (1) provide coverage for an amount of not less than the sum of three (3) months' regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) Officers and Board Members of the Association, (b) employees and volunteers of the Association, (c) any Manager, and (d) officers, directors, and employees of any Manager.

8.6. Worker's Compensation Insurance. The Board shall purchase and

maintain in effect workers' compensation insurance for all employees, if any, of the Association to the extent that such insurance is required by law and as the Board deems appropriate.

8.7. **Certificates.** Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association, and upon written request, to any Owner or Mortgagee.

8.8. **Name Insured.** The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies.

8.9. **Right to Negotiate All Claims and Losses and Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy are payable to the Association, and shall not be payable to a holder of a security interest. The Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for shall be distributed to the Owners and lien holders, as their interests remain with regard to the Lots. Each Owner hereby appoints the Association as attorney-in-fact for negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of the Owner.

8.10. **Owner Act Cannot Void Coverage Under Any Policy.** Unless the Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

8.11. **Waiver of Subrogation against Owners and Association.** All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Common Areas.** The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots.

9.2. **Use of Lots.** All Lots shall have a single-family Residence and are restricted to such use unless approved by the Board to the contrary. No business, trade, or other nonresidential use shall be conducted on any Lot without the prior written consent of the Board and approval from all applicable government entities. The Board may approve commercial activities if the Board determines that: only normal residential activities would be observable outside of the Residence; the business activity does not involve the solicitation of Occupants or Owners; the business will not result in the increase of the cost of the Association's insurance; and that the activities would not be in violation of applicable local ordinances.

9.3. **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots or the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereat shall be observed.

9.4. **Recreational and Commercial Vehicles.** No boats, trailers, recreational vehicles, trucks exceeding the 1-ton class or vending or commercial vehicles shall be parked or stored in or upon any of the private or public streets or in the Common Areas except in compliance with Rules as may be created by the Association. Except as otherwise provided by the Rules adopted by the Board, any boats, trailers, recreational vehicles or vending or commercial vehicles belonging to Owners or other residents of the Property must fit within and be stored and kept within the Owner's designated parking space.

9.5. **Pets and Animals.** No animals or birds of any kind shall be raised, bred, or kept in any Residence or on any portion of the Property; except as allowed herein or by the Board. A Residence may have up to two (2) usual and ordinary household pets such as dogs, cats, or birds, provided that they are not kept, bred, or maintained for any commercial or illegal purposes and they are kept under reasonable control at all times. In addition to two (2) household pets, chickens (not roosters) may be kept on Lots as set forth by Association Rules. Any dog shall be kept on a leash at all times when the dog is in the Common Areas. Owners shall prevent their pets from soiling any portions of the Common Areas and in the event a pet does soil a portion of the Common Areas, the Owner or person in control of such pet shall immediately clean up after the pet. Other animals may be allowed only as approved by the Board which may enact reasonable rules respecting the keeping of animals within the Project, including noise restrictions: the type, number, or breed of animals allowed in the Project; or designating certain areas in which animals may not be taken or kept. Pets and animals left outdoors overnight are only allowed in a fenced back yard and then only if the animals do not in any way become a nuisance to the other Owners within the Project. The Owners of dogs found roaming the Project without a leash will be subject to fines to be established by the Board and other remedies as may be available to the Board. The Board may adopt Rules related to pets that expand on or modify the requirements of this Section. Owners are solely responsible for the actions and behavior of the pets and animals staying or visiting at the Residence,

and shall hold the Association harmless from any damage or injury caused by such pets and animals.

9.6. **Machinery and Equipment.** No machinery or equipment of any kind shall be placed, used, operated, or maintained on or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Residence or appurtenant structures.

9.7. **Nuisances.** No resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior, which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes, but is not limited to, the following:

1) The development of any unclean, unhealthy, unsightly or unkempt condition on, in or about a Lot or the Common Areas:

2) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

3) The accumulation of rubbish, unsightly debris, garbage, equipment, unregistered or abandoned vehicles, or other things or materials that constitute an eyesore as reasonably determined by the Board;

4) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

5) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police must be called to restore order:

6) Maintaining any plants, animals, devices or items, instruments, equipment machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other residents, their guests or invitees;

7) Too much noise or traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m., or excessive use of outside speakers or amplifiers: or

8) Other sights, sounds, smells, activities, or behaviors deemed a nuisance by the Board.

9.8. **Signs.** The Association may regulate and restrict signs in the Project to the extent permitted by law. Unless otherwise designated in the Rules, the following restrictions shall apply lawn signs are prohibited, except "For Sale" or "For Rent" signs that may be placed in the front yard of a Lot, or as directed by the Board. All other signs may only be erected or maintained in the Project, whether in

a window or otherwise, with the prior approval of the Board. For Sale or For Rent signs may not exceed a surface area of five (5) square feet per side. In no instance may signs be placed in the Common Area without the written consent of the Board.

9.9. Garbage and Refuse Disposal. All rubbish, trash, and garbage shall be regularly removed from the Property or Lots and shall not be allowed to accumulate thereon. All garbage, trash or other waste shall be kept in sanitary receptacles provided by Kaysville City, including recyclable containers, which shall be stored in the garage or behind a side yard fence, except on trash collection days. No equipment or storage piles may be kept outside of the Residence. The Association may adopt additional Rules for the storage and concealment of trash containers.

9.10. Radio and Television Antennas. No externally visible antenna systems (or internally located electronic or radio equipment which interferes with any other Owner's quiet enjoyment of his Lot) shall be permitted in the Project without the express written consent of the Board. "Mini-satellite" dishes shall be permitted to be placed on Residences in an inconspicuous manner without approval of the Board.

9.11 Clothes Line. No exterior clothes lines shall be erected or maintained on the Property and there shall be no outside laundering or drying of clothes including front yards, front and back porches, and verandas of each Residence.

9.12 Equipment and Automobile Maintenance. Unless otherwise provided by the Board, no equipment or car maintenance of any nature shall be permitted on the Property except in a garage; behind a privacy fence separating the front and back yards of a Residence or, for vehicle maintenance, in a driveway so long as the vehicle is not left overnight in a condition that makes the vehicle appear that maintenance is still in process. Car washing or polishing may be done in the Residence's driveway or front yard, if done in accordance with Association Rules.

9.13. Parking. Owners and Occupants must park in their private driveways and garages or in parking areas designated by the Board. At no time shall any vehicle be parked in a manner that would block an entrance to a Lot or in front of a garage or walkway or at any other location within the Project, which would impair vehicular or pedestrian access, or snow removal. Parking in Common Areas (if any) shall be subject to and governed by Association Rules, and may be assigned by the Board. The Board may adopt additional Rules relating to the parking of vehicles within the Project, including, without limitation: the size and dimensions of the vehicles parked within the Project; the admission and temporary parking of vehicles within the Project; the right to remove or cause to be removed any vehicles that are improperly parked and the levying of fines to Owners and Occupants who violate, or whose invitees violate such Rules. Parking shall also be subject to applicable requirements.

9.14. Unslightly Items and Storage. No observable outdoor storage of any kind shall be permitted on front yards, porches, etc., which may be seen from the Association's roads or another Lot except for patio furniture in good

repair and condition. Said patio furniture shall conform to standards set by the Architectural Review Committee. Barbecue grills may be maintained on the patios of a back yard subject to any standards set by the ARC. A single storage shed with size, color, and other specifications approved by the Board may be constructed in the back yard of each Residence.

9.15. **Leases.** The leasing of Residences is permitted. Any agreement for the leasing, rental or occupancy of a Residence (hereinafter in this Section referred to as a "lease") shall be in writing, a copy of which shall be provided to the Board at the Board's request. Owners shall provide to the Association or its Manager the name and contact information for all adult tenants, vehicle information of the tenants, and any other information deemed necessary by the Board. No Owner shall be permitted to lease his/her Residence for transient, hotel, or seasonal purposes. All leases shall be for an initial term of no less than six (6) months. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his or her entire Residence. All leases shall provide that the tenant is subject to and shall abide by the Governing Documents and the tenant's failure to do so shall constitute a breach of the lease agreement. Within 10 days after delivery of written notice of the creation of a nuisance or violation of the Governing Documents the Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her intentions.

9.16. **Energy Conservation Equipment.** Energy Equipment may be constructed or installed on a Lot or Residence in the Project so long as the Energy Equipment is not visible from the front of the Lot or Residence. Any Energy Equipment allowed to be installed within the Project is also subject to ARC Rules. Such Rules must require that the installation be an integral and harmonious part of the architectural design of the Lot or Residence. The ARC shall have the sole discretion to determine compliance with the Design Guidelines. The following requirements shall apply to any Energy Equipment allowed by the ARC:

- 1) The Energy Equipment shall be installed in a manner that complies with all applicable health, safety, and building requirements established by applicable law, regulation building code, or ordinance;
- 2) If the Energy Equipment is used to heat water, it shall be certified by the "Solar Rating and Certification Corporation", or a nationally recognized solar certification entity as determined by the Board;
- 3) If the Energy Equipment is mounted on a roof, it shall not extend above the roofline and all panel frames, support brackets and visible piping and wiring shall be similar in color and texture to the roof material;
- 4) If the Energy Equipment is mounted on the ground, it shall not be visible from the street that the Residence fronts;
- 5) Any and all costs incurred by the Association in reviewing any application to install Energy Equipment or in carrying out or enforcing the terms of this Section, including attorneys' fees, shall be

paid to the Association as an Individual Assessment as set forth in Article V above;

6) The Owner of the Residence or Lot whereupon the Energy Equipment is installed shall maintain the same in a clean, attractive, and workmanlike manner, as determined by the ARC:

7) The Owner installing the Energy Equipment shall be jointly and severally liable with any subsequent Lot Owner for a violation of any Rules or Design Guidelines duly adopted by the Association regarding the placement, care, maintenance, and so forth of any Energy Equipment, including those requirements set forth herein:

8) The Lot Owner shall be responsible for and shall indemnify and hold the Association harmless from, any damage or injury to person or property that is caused by the Energy Equipment; and

9.17. **Smoking.** Smoking and vaping shall be prohibited in and throughout the Common Areas. The Board may adopt additional Rules to address smoking and vaping within the Project.

9.18. **Variances.** The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article if a majority of the Board determines in its discretion: (1) either that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce, and (2) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the other Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by a duly authorized Board Member.

ARTICLE X. ARCHITECTURAL CONTROLS

10.1. **Architectural Review Committee.** The Board may appoint a three (3) member Architectural Review Committee, the function of which shall be to ensure that all improvements and landscaping within the Project harmonize with existing surroundings and structures (herein the "ARC"). The ARC need not be composed of Owners. If such a committee is not appointed, the Board shall perform the duties required of the ARC. The ARC's responsibilities include but are not limited to: 1) Review and approve all structures and improvements within the Project; 2) Ensure Lot Owners maintain their Lot appearance and conditions in accordance with the terms of the Governing Documents; 3) Jurisdiction over any removal of living trees on Common Areas; 4) Planning and implementing improvements and maintenance of Common Areas.

10.2. **Architectural Controls.** To maintain a degree of protection to the investment, which Owners have made, exterior alterations of structures, fences,

or landscaping shall be limited to those approved by the ARC. In the event of any reconstruction of an improvement or Residence due to a casualty, the design, quality, and appearance of the reconstructed home shall be substantially the same as the structure initially built, unless otherwise approved by the ARC. No landscaping, grading, excavation, building, fence, wall, Residence, or other structure or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the plans and specifications have been approved in writing by the ARC. All subsequent additions to or changes or alterations in any building, fence, wall, or other structure, including exterior color scheme, and all changes in the grade within the Project, shall be subject to the prior written approval of the ARC. Once approved by the ARC, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the ARC. Subsequent to receiving approval of the ARC and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from Kaysville City when required. Plans and specifications submitted to the ARC shall give complete descriptions and color samples of materials to be used. The ARC will base its approval of plans, specifications, landscaping plans, and other alterations upon compliance with the Design Guidelines, and any other guidelines adopted by the Association.

Interior alterations that do not affect the exterior appearance of a Lot or Residence shall not be required to be approved by the ARC. The Board or the ARC may adopt additional Rules that exempt minor alterations or certain types of decor from being subject to this section and ARC approval.

10.3. Design Guidelines. The Board may adopt Design Guidelines for the purpose of maintaining a consistent character and quality of appearance of the improvements within the Project.

1) The Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board and ARC. The Design Guidelines may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values.

2) Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

10.4. Variances. The ARC may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be in writing and must be signed by all of the members of the ARC (or Board if acting as the ARC). If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it

affect an Owner's obligation to comply with all governmental laws and regulations.

10.5. **Liability for Damages.** The ARC shall not be held liable for damages because of any action, inaction, approval, or disapproval by it made pursuant to this Article.

10.6 **Landscaping Review Committee.** The Board may create and appoint a "Landscaping Review Committee", in addition to the ARC, to handle the landscaping aspects of the ARC's responsibilities as the Board deems appropriate.

ARTICLE XI. ENFORCEMENT

11.1 **Enforcement of Governing Documents.** The Association, through the Board, shall have the power and authority in its own name, on its own behalf, or in the name and behalf of any Owner(s) who consents thereto, to enforce by fine or proceedings at law or in equity each provision of the Governing Documents and Design Guidelines, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). Owners may also enforce the Governing Documents and Design Guidelines as allowed by law through proceedings at law or in equity. The prevailing party in any action for the enforcement of any provisions of the Governing Documents and Design Guidelines (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Occupants, guests, and invitees shall be jointly and severally liable with the Owner for any fine assessed as a result of their action in violation of the provisions of the Governing Documents.

ARTICLE XII. RIGHTS OF FIRST MORTGAGEE

12.1. **Title In Mortgage.** Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage will not be liable for such Lot's Assessments or charges, which accrue prior to the acquisition of title of such Lot by the Mortgagee. However, such first Mortgagee shall be responsible for Assessments levied while it holds title to the Lot.

12.2. **Notice of Default by Lot Owner.** In the event an Owner neglects for a period of sixty (60) days or more to cure any failure on his part to perform his obligations under this Declaration or other Governing Documents, the Association, upon written request from the Mortgagee, shall give written notice of such fact to the Mortgagee covering such Owner's Lot.

12.3. **No Priority.** No provision herein is intended, nor shall it be construed, to give any Lot Owner or any other party, priority over any rights of the first Mortgagee of a Lot pursuant to its Mortgage in the case of a distribution to such Lot Owner of insurance proceeds or condemnation awards for losses to or

a taking of Common Areas.

ARTICLE XIII. RIGHT OF ENTRY

13.1 Right to Enter.

1) **Uninhabited Lot Access.** The Association acting through the Board or its duly authorized agent shall have the right upon at least 48 hours advanced notice to the Owner of record to enter upon any uninhabited Lot, without trespass, to abate any infractions to fulfill its responsibilities, to exercise its rights, to make repairs or correct any violation of any of the Governing Documents, and in connection therewith shall have the further right to assess all costs incurred against the Owner. Such Assessment to be secured by a lien provided in Article V as used in this Article XIII, an "uninhabited Lot" shall mean and refer to: (i) a Lot with no Residence; (ii) a Lot that has not had an Owner or Occupant living in the Residence for at least a month as reasonably determined by the Board; or (iii) a Lot that has been abandoned as reasonably determined by the Board.

2) **Lot Access.** Before accessing a Lot to correct a violation of the Governing Documents or Design Guidelines (except for uninhabited lots discussed above), the Association shall: (a) send two (b) notices to the Owner (at least 10 days apart), (c) fine the Owner pursuant to the Association's schedule of fines, and (d) give the Owner at least 30 days after receiving the 2nd notice and fine to correct the violation. Afterwards, if the Owner continues to be in violation, the Association, acting through the Board or its duly authorized agent may access a Lot, without trespass, and correct the violation of the Governing Documents. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot under this Section.

3) **Residence Entry.** The Association has no right of entry into a Residence.

ARTICLE XIV. AMENDMENTS

14.1 **Amendments.** This Declaration may be amended upon the affirmative vote of at least sixty-seven percent (67%) of the voting interests of the Association. No meeting shall be required for an amendment if the required vote for approval is obtained by written consent or ballot. Any amendment(s) shall be effective upon recordation in the office of the Davis County Recorder in such instrument the Board shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature used for

voting shall be required.

ARTICLE XV. MISCELLANEOUS

15.1. **Notices.** Any notice required or permitted to be given to any Owner or Member according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, or if mailed, postage prepaid, to the Person who appears as an Owner, at the latest email or mailing address for such Person appearing in the records of the Association at the time notice is sent. If no email or mailing address has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes. Owners may opt out of notice via email at any time.

15.2. **Consent in Lieu of Voting.** In any case in which this Declaration requires authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast the required percentage of membership votes.

15.3. **Dissolution.** The Association may be dissolved by the affirmative assent in writing from 90% of the Lot Owners. Upon dissolution, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for purposes similar to those provided herein and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas and facilities on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth in Article V.

15.4. **Interpretation of Severability.** The captions, which precede the Articles and Sections of this Declaration, are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

15.5. **Covenants to Run with Land.** This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Association and all parties who hereafter acquire any interest in a Lot or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any Rules, agreements, instruments, and determinations contemplated by this Declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Association or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

15.6. **Reasonable Accommodations.** Notwithstanding anything to the contrary in this Declaration, the Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable

accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) as amended, to accommodate a Person with a disability (as defined by Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Lot, Common Area facilities and buildings, or deviations from provisions of the Governing Documents. Any modification or accommodation made under this section shall not act as a waiver of the provisions of the Governing Documents with regard to anyone else.

15.7. **No Waiver.** Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or the Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

15.8. **Condemnation.** If a portion of the Common Area is taken by eminent domain or sold under threat thereof, and is not comprised of and does not include any Lot, the Board shall cause the award to be utilized for repairing or restoring that area in the Project adjacent to the taking and the portion of the award not used for restoration shall be added to the general funds of the Association. If a Lot is taken by eminent domain, or sold under threat thereof leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, then that Lot's interest in the Common Areas shall be reallocated to the remaining Lots in proportion to their respective interests immediately before taking title.

15.9. **Security.** The Association shall in no way be considered an insurer or guarantor of security within or relating to the Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owner(s) agree by purchasing a Lot in this Association that the Association and Board are not insurers of the safety or well being of Owners or Occupants or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Lots, the Common Areas, and to the contents of improvements located thereon to the extent not insured by the Association. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION AND BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED,

INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO THE SECURITY OF THE PROJECT.


15.10. **Effective Date.** The Declaration and any amendment hereof shall take effect upon its approval by Kaysville City and filing in the office of the Davis County Recorder.

CERTIFICATION

IN WITNESS WHEREOF, this Declaration of Covenants, Conditions and Restrictions for Center Hill Townhomes was duly approved.

DATED as of this 21 day of July 2021.

FLINT INVESTMENTS, LLC.
dba HAWK HOMES,

By: 

JED FLINT,

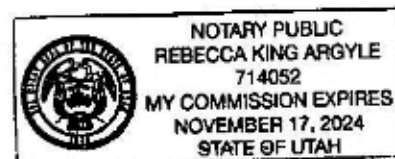
Its: Managing Member

State of Utah)

County of Davis)

On the 21 day of July 2021, personally appeared before me JED FLINT, who by me being duly sworn, did say that he is an authorized representative of the FLINT INVESTMENTS, LLC. dba HAWK HOMES, and that the foregoing instrument is signed and executed by authority of the consent of its members.


NOTARY PUBLIC



BEGINNING AT THE NORTHEAST CORNER OF LOT 6, BLOCK 3, PLAT 'A', KAYSVILLE TOWNSITE SURVEY, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF CENTER STREET, BEING NORTH 00°10'23" EAST ALONG THE SECTION LINE (WITH THE HISTORICAL DAVIS COUNTY SURVEYOR RECORD BEARING BEING NORTH 00°16'40" EAST AND THE NAD83 BEARING NORTH 00°35'57" EAST) 1300.76 FEET AND NORTH 89°33'30" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE 41.65 FEET FROM THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE SOUTH 00°26'30" WEST ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 132.00 FEET; THENCE NORTH 89°33'30" WEST 132.00 FEET TO THE WEST LINE OF SAID LOT 6; THENCE NORTH 00°26'30" EAST ALONG SAID WEST LINE 132.00 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE SOUTH 89°33'30" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE 132.00 FEET TO THE POINT OF BEGINNING. (NAD83 ROTATION FROM DAVIS COUNTY SURVEYOR COORDINATE SYSTEM IS 00°19'53" CLOCKWISE)

CONTAINS 17,424 SQ/FT OR 0.40 ACRES