

When Recorded Mail To:

VP Daybreak Operations LLC
Attention: Gary Langston
11248 Kestrel Rise Road, Suite 201
South Jordan, UT 84009

V 3, Revised 8/19/2019

**SUPPLEMENT TO COMMUNITY CHARTER FOR DAYBREAK ESTABLISHING
AND/OR EXPANDING SERVICE AREA
FOR
HEIGHTS PARK TOWNHOMES PROJECT**

THIS SUPPLEMENT TO COMMUNITY CHARTER FOR DAYBREAK ESTABLISHING AND/OR EXPANDING SERVICE AREA FOR HEIGHTS PARK TOWNHOMES PROJECT (this “**Supplement**” or “**Service Area Supplement**”) is made by VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company, as successor-in-interest to Kennecott Land Company, a Delaware corporation (“**Founder**”), pursuant to that certain Community Charter for Daybreak recorded in Book No. 8950 Page No. 7784-7908 as Entry Number 8989518 in the Office of the County Recorder, Salt Lake County, Utah as subsequently amended and supplemented (collectively, the “**Charter**”). Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Charter.

RECITALS

- A. WHEREAS, Founder is the founder of the Daybreak Community.
- B. WHEREAS, the Charter governs the phased development of a community commonly known as “*Daybreak*” located in the City of South Jordan, Utah, which community is governed by the Daybreak Community Association, Inc. (the “**Association**”).
- B. WHEREAS, pursuant to Section 3.4 of the Charter, Founder may designate Service Areas and assign Units to a particular Service Area in a Supplement;
- C. WHEREAS, pursuant to Section 3.4 of the Charter a Supplement to the Charter may be recorded to establish and or designate Units that share Limited Common areas or receive special benefits or services from the Association that it does not provide to all Units within the Community.
- D. WHEREAS, Sego Daybreak #10, LC, a Utah limited liability company (“**Builder**”) is the builder and owner of that portion of real property covered by the Charter described in Exhibit 1, attached hereto and incorporated herein by this reference (the “**Builder Property**”), which Builder Property is being developed by Builder as a townhome project (initially containing 38

individual Units) and related amenities, Common Areas, and facilities as shown on the applicable Plat(s), commonly known as the Heights Park Townhomes Project (collectively, the "Project"); and

E. WHEREAS, Founder, with the consent of Builder, desires to create a Service Area (or expand such Service Area, as applicable), within the Builder Property, as permitted by the Charter, and impose additional covenants, conditions, restrictions and reservations of easements thereon in addition to those set forth in the Charter.

NOW, THEREFORE, Founder hereby agrees, acknowledges and declares as follows:

1. **Service Area Designation.** By this Supplement, that portion of the Builder Property described in Exhibit A attached hereto is hereby designated and established as a Service Area under the Charter and such Service Area shall be known as: Heights Park Townhomes (the "Service Area").
2. **Supplement to Governing Documents.** In addition to this Supplement, the Service Area shall be governed by the terms of the Charter and other Governing Documents and shall be subject to all expenses, covenants, conditions, restrictions, and reservations of easements therein. The provisions of this Supplement shall supplement, and shall not supersede, the provisions of the Charter and other Governing Documents, and in the event of a conflict, the terms and provisions of the Governing Documents shall control; provided, however, that if the terms and provisions of this Supplement are more restrictive than the Governing Documents, the terms and provisions of this Supplement shall control. Nothing herein contained shall be construed to relieve any Owner or Unit within the Service Area from the conditions, covenants, and restrictions contained in the Governing Documents, or as limiting or preventing any rights of enforcement granted or available to the Association or by virtue thereof.
3. **Common Elements.** The Common Elements shall be reserved for the use and benefit of the Owners and residents of the Units within the Service Area. Pursuant to Sections 6.3 and 12.1 of the Charter, the Association shall maintain, and be responsible for repairing and replacing, all Common Elements assigned to the Service Area as a Service Area Expense. Upon completion of construction of the applicable Common Elements, Builder shall promptly take any and all reasonable steps to convey title to any of the Common Elements to the Association, free and clear of all liens and encumbrances. Those necessary steps may include, without limitation, preparation and execution of any documents and/or gift deeds relating to the Common Elements, which deeds or other document shall be in form and substance reasonably acceptable to the Association. The term "Common Elements" as used herein means all personal and real property, other than Units, owned by the Association and/or Builder for the use and enjoyments of the Owners and residents of the Units within the Service Area and their guests and invitees, and are more particularly described in Exhibit B attached hereto.
 - (a) **Owner's Easement of Enjoyment.** Each Owner and resident of a Unit within the Service Area, and their permitted guests and invitees, is hereby granted a right and easement of enjoyment of the Common Elements consistent with other Common Area easements contained in Section 13.1 of the Charter and such easements shall be appurtenant to and shall

pass with title to every Unit subject to the terms of the Charter and any Rules established by the Association.

(b) **Limited Common Areas.** Certain portions of the Common Elements which are Limited Common Areas or those which are primarily for the use or primary benefit of less than all Units in the Service Area, as stated in Section 3.1 of the Charter and as described in **Exhibit B**.

(c) **Delegation of Enjoyment.** Any Owner may delegate, in accordance with the Governing Documents, his or her rights of enjoyment to the Common Elements to the members of his or her family, social invitees, and tenants or contract purchasers of the applicable Unit, subject to reasonable regulations and procedures established by the Association's Board.

(d) **Limitation on Construction.** No person other than Founder or the Association or its duly authorized agents, delegates or Service Area Committee shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub, or other vegetation from any Common Elements.

(e) **Owner's Liability for Damages to Common Elements.** Each Owner shall be legally liable to the Association for all damages to the Common Elements or to any improvements thereof or thereto, including, but not limited to curbs, sidewalks, paved surfaces, lighting, any buildings and landscaping caused by such Owner, his or her licensees, pets, guests, or any occupant of such Owner's Unit, as such liability may be determined under Utah law.

(f) **Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Service Area designed to make the Service Area safer than it otherwise might be. Neither the Association (including the Board and the applicable Service Area Committee) nor Founder shall in any way be considered insurers or guarantors of security within the Service Area, nor shall any of the above-mentioned parties be held liable for any loss or damage by reason of (i) failure to provide adequate security, or (ii) ineffectiveness of security measures undertaken, or (iii) inability of emergency access vehicles to access the Service Area. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Service Area cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended.

Each Owner acknowledges, understands and covenants to inform all residents of its Unit, and their respective families and invitees, that neither the Association (including the Board and any committees) nor all other persons involved with the governance, maintenance, and management of the Project, including Founder, are insurers of safety or security within the Service Area. All Owners and residents, and their respective families and invitees, assume all risks of personal injury and loss or damage to persons, Units, and the contents of Units, and further acknowledge that neither the Association (including the Board and any committees), nor Founder have made representations or warranties regarding any entry gate, patrolling of the properties, any fire protection system, burglar alarm system, or other security systems recommended or installed or

any security measures undertaken within the Service area, as applicable. All Owners and residents, and their respective families, guests, and invitees, further acknowledge that they have not relied upon any such representations or warranties, expressed or implied.

4. **Common Benefits.** The Common Benefits shall be reserved for the use and benefit of the Owners and residents of the Units within the Service Area. Pursuant to the Charter and this Supplement, the Association shall provide the Common Benefits assigned to the Service Area as a Service Area Expense. The term “**Common Benefits**” as used herein means those additional benefits and services, excluding the Common Elements, provided by the Association to the Units within the Service Area that the Association does not provide to Units outside the Service Area, and are more particularly described in **Exhibit C** attached hereto.

5. **Service Area Expenses.** Subject to the Charter and this Supplement, and in addition to other expenses, identified in the Charter and in this Supplement or its exhibits, if any, the expenses that the Association incurs or expects to incur in connection with the ownership, maintenance, and operation of the Common Elements and Common Benefits now or hereafter assigned to the Service Area for which the Association has such responsibility shall be “**Service Area Expenses**”, as well as any other amounts that are allowed as Service Area Expenses under Section 12.1(b) of the Charter for which the Owners of Units within the Service Area shall be responsible. In addition, all Service Area Expenses shall be assessed to the applicable Units as a “**Service Area Assessment**” as provided for in Chapter 12 of the Charter. The Association shall prepare an annual Service Area budget for the estimated Service Area Expenses in accordance with Section 12.2. of the Charter.

6. **Common Expenses and Special Expenses.** In addition to and not in limitation of the Service Area Expenses, Units within the Service Area shall also be subject to the Common Expenses, Special Assessments, and other expenses and assessments as authorized by the Charter.

7. **Personal Obligation.** All Service Area Assessments are a personal obligation as any other assessment levied by the Association. All the rights and responsibilities contained in the Governing Documents, including methods of collection, of Association assessments are applicable to Service Area Assessments, including the personal nature of the obligation to pay all Service Area Assessments.

8. **Additional Covenants.** The Service Area shall be subject to the additional covenants, conditions, restrictions and reservations of easements set forth in **Exhibit D** attached hereto, if any, and such additional covenants, restrictions, and easements shall be binding upon the Owners, residents, and guests of Units within the Service Area, in addition to the terms of the Charter and other Governing Documents.

9. **Maintenance.** Pursuant to Section 6.3 and 12.1(b) of the Charter, the Association, its community manager and/or its designee shall maintain the Service Area Common Elements. In all respects, the Association shall maintain the Service Area in a manner consistent with the Governing Documents and the Community-Wide Standard as described in Section 9.2 of the Charter.

10. **Service Area Committee.** Builder, as the initial owner of the Units within the Service Area, shall designate the Builder representatives to initially form and govern the Service Area Committee. Thereafter, once no less than 90% of the Units in the Service Area are owned by third-party Owners, then pursuant to Section 3.4 of the Charter, the third-party Owners of Units within the Service Area may elect replacement members of the Service Area Committee in accordance with Section 3.17(c) of the By-Laws, which member(s) shall each serve for a term of no greater than 2 successive years, to represent and act on behalf of the Owners with respect to the services and benefits that the Association provides to the Service Area. In all events, the Service Area Committee shall be subordinate to the Association and any material action taken by the Service Area Committee must first be approved by the Board of the Association prior to taking effect. From time to time, the Service Area Committee may make recommendations to the Association concerning the implementation and administration of Service Area services or the operation and maintenance of Common Elements and/or Limited Common Areas.

11. **Insurance Coverage.** Consistent with Chapter 11 of the Charter, to the extent reasonably available, the Board shall obtain and maintain blanket property insurance coverage as set forth in this Section. If such insurance is not reasonably available, and the board determines that any insurance described in this Section will not be maintained, the Board shall promptly cause Notice of that fact to all Owners and Eligible Holders.

(a) **Property Insurance Coverage.**

1. **Coverage.** Property Insurance will cover:

(i) All fixtures, equipment and any improvements and betterments which are affixed to or a part of the Common Elements; and

(ii) All personal property owned by the Association within the Service Area.

2. **Amounts.** The insurance will be for an amount (after application of any deductions) equal to one hundred percent (100%) of the actual cash value of the covered items at the time the insurance is purchased and at each renewal date. The Board is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the insured items, and the cost of such appraisals shall be a Service Area Expense.

3. **Risks Insured Against.** The insurance shall afford protection against "all risks" of direct physical loss commonly insured.

4. **Other Provisions.** Insurance policies required by this Section shall provide that:

(i) Each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common elements or membership in the Service Area.

(ii) The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner.

(iii) An act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition of recovery under the policy.

(iv) If, at the time of a loss under the policy, there is other insurance in the name of an Owner which covers the same risk covered by the policy, the Service Area's policy provides primary insurance.

(v) Losses must be adjusted with the Service Area.

(vi) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and otherwise to the Association, but, in any case, it is to be held in trust for each Owner and the Owner's Mortgagee.

(vii) The insurer may not cancel or refuse to renew the policy until thirty (30) days after Notice of the proposed cancellation or nonrenewal has been mailed to the Association, to each Owner and to each holder of a security interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

(viii) The name of the insured shall be substantially as follows: Daybreak Community Association, Inc., for the use and benefit of the individual Owners within the Heights Park Townhomes Project Service Area.

(b) **Liability Insurance.** Liability insurance, including medical payments insurance, will be maintained as determined by the Board. This insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and the activities of the Association. Insurance policies carried pursuant to this Section shall provide that:

1. Each Owner in the Service Area is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Service Area.

2. The insurer waives the right to subrogation under the policy against an Owner in the Service Area or member of the household of an Owner in the Service Area.

(c) **Right and Duty of Owners to Insure.** It is the responsibility of each Owner to provide insurance on such Unit, personal property and all other property and Improvements on or part of the Unit. Nothing herein shall preclude any Owner from carrying any liability insurance as such Owner deems desirable to cover the Owner's individual liability for damage to person or property occurring on or within the Owner's Unit or elsewhere within the Service Area. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Service Area.

(d) **Premiums.** Insurance premiums for insurance carried or to be carried by the Association for the Common Elements shall be a Service Area Expense unless the Board otherwise determines consistent with Section 11.4 of the Charter.

(e) **Other Insurance.** The Association may carry other insurance on the Service Area which the Board considers appropriate to protect the Association and/or the Owners.

12. **Dispute Resolution.** Any dispute related to the Service Area, the Service Area Committee or any other matters hereunder shall be subject to Chapter 18 of the Charter. The Service Area and Owners subject to the Service Area will be considered "Bound Parties" as defined in Section 18.1 of the Charter. Service Area Assessments and Service Area Expenses will be resolved in a manner consistent with the Governing Documents.

13. **Amendments.** This Supplement may be amended consistent with Section 3.4 and 20.2 of the Charter.

14. **Miscellaneous.**

(a) **Waiver.** No provision contained in this Supplement is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

(b) **Invalidity.** The invalidity of any provision of this Supplement does not impair or affect in any manner the validity, enforceability or effect of the remainder, and if a provision is invalid, all of the other provisions of this Supplement shall continue in full force and effect.

(c) **No Public Right or Dedication.** Nothing contained in this Supplement shall be deemed to be a gift or dedication of all or any part of the Builder Property to the public, or for any public use.

[Signatures on following page]

IN WITNESS WHEREOF, Founder has caused this Supplement to be executed and Builder and the Association have consented to the same as of this 21st day of August 2019.

Founder: **VP DAYBREAK OPERATIONS LLC,**
a Delaware limited liability company

By: Daybreak Communities LLC,
a Delaware limited liability company
Its: Project Manager

By: [Signature]
Name: TM McCUTCHEEN
Its: PRESIDENT & CEO

Builder: **SEGODAYBREAK #10, LC,**
a Utah limited liability company

By: [Signature]
Name: Wayne H Corbridge
Its: Managing Member

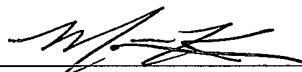
Association: **DAYBREAK COMMUNITY
ASSOCIATION, INC.,**
a Utah nonprofit corporation

By: [Signature]
Name: Rick Santoy
Its: President

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

On Aug 26, 2019, personally appeared before me, a Notary Public, Ty McCutcheon, President and CEO of Daybreak Communities LLC, a Delaware limited liability company, the Project Manager of VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company, personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of VP DAYBREAK OPERATIONS LLC, a Delaware limited liability company.

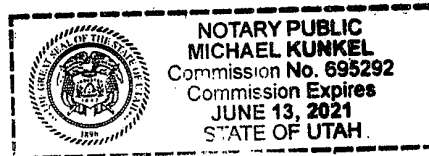
WITNESS my hand and official Seal.



Notary Public in and for said State

My commission expires: June 13, 2021

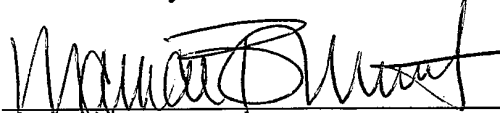
[SEAL]



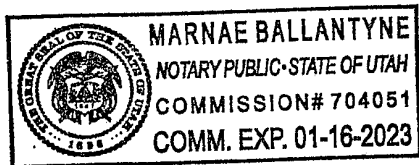
STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

On Aug 21 2019, personally appeared before me, a Notary Public, Wayne H. Carlomagno of SEGO DAYBREAK #10, LC, a Utah limited liability company, personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of SEGO DAYBREAK #10, LC, a Utah limited liability company.

WITNESS my hand and official Seal.



Notary Public in and for said State
My commission expires: Jan 16, 2023



[SEAL]

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

On Aug 22, 2019, personally appeared before me, a Notary Public, Rich Sonntag the of Daybreak Community Association, Inc., a Utah nonprofit corporation, personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of Daybreak Community Association, Inc., a Utah nonprofit corporation.



WITNESS my hand and official Seal.

Rebecca S. Aulai

Notary Public in and for said State

My commission expires: 2/24/23

[SEAL]

**EXHIBIT A
Builder Property**

The following properties are included in the Heights Park Townhomes Service Area.

Lots 856-875 of the Daybreak Village 5 Multi-Family #3 Plat Map, according to the official plat thereof recorded with the office of the Salt Lake County Recorder, state of Utah, further described as follows:

Lot	Parcel #
856	26133390080000
857	26133390090000
858	26133390100000
859	26133390110000
860	26133390120000
861	26133390130000
862	26133390140000
863	26133390150000
864	26133390160000

865	26133390170000
866	26133390180000
867	26133390190000
868	26133380090000
869	26133380080000
870	26133380070000
871	26133380060000
872	26133380050000
873	26133380040000
874	26133380030000
875	26133380020000

Lots 609-620 of the Daybreak Village 5 Plat 10 Subdivision Plat Map, according to the official plat thereof recorded with the office of the Salt Lake County Recorder, state of Utah. Further Described as follows:

Lot	Parcel #
609	26134660040000
610	26134660050000
611	26134660060000
612	26134660070000
613	26134660080000
614	26134660090000

615	26134660100000
616	26134660110000
617	26134660120000
618	26134660130000
619	26134660140000
620	26134660150000

Lots 805-810 of the Daybreak Village 5 Plat 12 Subdivision Plat Map, according to the official plat thereof recorded with the office of the Salt Lake County Recorder, state of Utah. Further described as follows:

Lot	Parcel
805	26134720060000
806	26134720050000
807	26134720040000

808	26134720030000
809	26134720020000
810	26134720010000

EXHIBIT B
Common Elements

“Common Elements” and/or “Common Area” means, refers to, and includes: (a) The real property, excluding all Lots as defined herein, and interests in the real property which comprise the Service Area and which is and are submitted to the Master Residential Declaration and this Supplement; (b) All common areas and facilities designated as such on the Plats and all property on the Plats excluding the Lots; (c) In general, all apparatus, installations and facilities included within the Service Area and existing for common use including the storm water detention basin, park strip(s), roads and perimeter fencing; (d) The Service Area’s roads (except public roads when the context requires for maintenance purposes); (e) All other parts of the Service Area normally in common use or necessary or convenient to its use, existence, maintenance, safety or management; and (f) All common areas as defined in the Community Association Act, located within the Builder Property, whether or not enumerated herein.

EXHIBIT C
Common Benefits

Association Responsibility Regarding Common Areas. The Association shall be responsible for maintenance, repair, and replacement upon the Common Area, the Limited Common Area which are not being maintained by the Owner as set forth above.

The Association shall also maintain all Common Area amenities which may be installed from time to time. However, if the Common Areas, Limited Common Areas or a Lot are damaged by the willful misconduct or negligence of an Owner, their guests, tenants, or invitees, such Owner shall be responsible for all such damage.

Association Responsibility Regarding Buildings and Units. Except for the Owner's responsibilities set forth herein, the Association shall have the duty of maintaining, replacing and repairing the Buildings including, without limitation, footings and foundations, structural components (inclusive of structural post of any kind), roofs and common sanitary sewer laterals (if any) and other common utilities (if any). The cost of said maintenance, replacement and repair shall be assessed to all of the Owners. The Board shall not need the prior approval of the Members to cause such maintenance, replacement or repairs to be accomplished, notwithstanding the cost thereof.

Maintenance of Lots. The Association shall maintain the landscaping and related improvements on the Lots, as set forth herein. The areas maintained by the Association, including the exterior of the Buildings, shall be referred to herein as the "**Maintained Areas**". The Maintained Areas shall include the front lawn and front yard garden areas, excluding any stand-alone planters, window boxes, walls and enclosed areas within fences (whether or not installed by Builder or by Owner) or walls (i.e. fenced areas with a gate [whether opened, closed, locked, or unlocked] shall be deemed "enclosed" hereunder). Owners may reasonably enhance the landscaping on their Lot (if any) by planting flower bulbs or flowers; provided, however, than an Owner shall not modify any irrigation components, lines or systems.

Snow Pushing. The Association shall perform reasonable snow pushing from all Common Area streets, Common Area access ways, Common Area fire lanes and Common Area Association sidewalks serving multiple Lots, driveways and driveway aprons. Owners shall be responsible for pushing and/or removal of all other entry points to their Lot, including without limitation patios, porches, balconies, pathways, and sidewalks bordering an Owner's Lot.

Maintenance Standard. All maintenance, repair and replacement obligations shall be performed in a manner consistent with the Master Residential Declaration and the Community-Wide Standard.

Right of Entry and Access at Reasonable Hours. The Association shall have a right of entry and access to, over, upon, and through the entire Project, including each Lot and each Unit, to enable the Association to perform its obligations, rights, and duties pursuant hereto with

regarding to maintenance, repair, restoration, and/or servicing of any items, things or areas of or in the Project. In the event of an emergency the Association right of entry to a Unit may be exercised without notice; otherwise, the Association shall give the Owners or occupants of a Unit no less than twenty-four (24) hours advance notice prior to entering a Unit.

Clarification and Alteration of Certain Maintenance Duties by Rule. To the extent not clarified herein and not inconsistent with the provisions of this Declaration, the Association may, by duly adopted Board resolution, identify and assign those areas of maintenance and responsibility that are either (1) Owner responsibilities; or (2) Association responsibilities.

EXHIBIT D

Additional Covenants

The following covenants, conditions, restrictions, and easements are in addition to those stated in the Charter pursuant to Section 8 of this Supplement:

I PROPERTY

1.1 Description and Legal Status of Lots. The Plat(s) shows the Lots, their locations, dimensions from which their areas may be determined together with the Definitions provided herein, and the Common Areas. All Lots are residential Lots. All Lots shall be capable of being independently owned, encumbered, and conveyed.

(a) Initial Development. There are initially 38 individual Units being constructed subject to annexation of additional Units as provided herein.

(b) Expansion of Development.

(1) Annexation of Additional Property. Builder, its successors and assigns, shall have the unilateral right for the maximum period permitted by law, without the necessity for consent from the members of the Association, to bring additionally property in the Project which shall be part of the Association and against which all Governing Documents shall run with the land annexed into the Project ("**Additional Property**").

(2) Method of Annexation. Additional Property may be annexed to the Project by the recording of Supplement to the Charter (a "Supplement") and plat for each phase in the Recorder's Office of Salt Lake County, State of Utah. The Supplement shall extend the scheme of this Service Area to the Additional Property. The described property shall then become part of the Heights Park Townhomes Project. Upon the recording of such a Supplement and plat, Owners of such Additional Property shall be subject to the same obligations and entitled to the same privileges as apply to the initial Owners of the Property.

(3) General Plan of Development. Any Additional Property added to the Project under an additional Supplement pursuant to this Section shall conform to the general plan of development as shown on the Plat. However, the Builder, its successors or assigns, are not bound to expand the Project as it may decide.

(4) Limitation on Number of Lots. There is no limitation on the number of Lots or Units which Builder may create or annex to the Project or the number of phases by which Additional Property may be added to the Project, except as may be established by Founder, applicable municipal ordinance, or the Association, as applicable.

II EASEMENTS

2.1 Party Walls. Certain of the Units may have common or party walls with adjacent Units. The boundary between two adjacent Units shall be the vertical boundary running through the center of the party wall, equidistant from the outermost surfaces of studs and structural beams making up the party wall. Each Owner that owns a Unit adjoining another Unit is hereby granted an easement of support and shelter over the portion of any party, adjacent or retaining wall on the adjoining Unit. Each Owner covenants to continue to provide the support and shelter that presently exists (or will exist following construction) and as may be necessary to maintain the integrity of each Building. Each Owner has an easement for pipes, ducts and utility ways and chases passing through the other Units that serve its Unit. Physical structures including party walls serving two separate Units will be shared through a mutual nonexclusive easement of enjoyment for all purposes for which the improvements and their replacements were intended.

2.2 No Encroachment. No Lot shall encroach upon an adjoining Lot without the express written consent of the Association. If, however, an encroachment occurs due to the settlement or shifting of a structure/building or any other reason whatsoever beyond the control of the Association or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non-disturbance of the structure. Such easement shall remain in full force and effect so long as the encroachment shall continue.

III RESTRICTIONS ON USE

3.1 General Use Restrictions. All of the Property which is subject to this Supplement is hereby restricted to residential dwellings, and buildings in connection therewith, including but not limited to community buildings on the Common Area. All buildings or structures erected in the properties shall be of new construction and no buildings or structures shall be removed from other locations to the properties. After initial construction on a Lot, no subsequent building or structure of a temporary character including, but not limited to, trailer, basement, tent, camper, shack, garage, barn or other building shall be placed or used on any Lot at any time.

All Lots within the Service Area are subject to the following use restrictions as well as additional restrictions set forth in the Governing Documents of the Association.

3.2 Residential Use. Lots shall be used for residential purposes in accordance with, and subject to, the Charter, other provisions of this Service Area Supplement, and rules and regulations adopted pursuant thereto. Except as provided in this subsection, no trade, craft, business, profession, commercial or similar activities that cause additional pedestrian or vehicular traffic or create a sight or noise nuisance shall be conducted on any Lot or in any other portion of the Project.

3.3 Animals.

(a) The Association shall have the express authority and right to promulgate rules, beyond those stated herein, restricting the keeping of pets.

(b) Subject to Section 3.3(a), no more than two (2) dogs and two (2) cats shall be kept within any Lot. Additionally, no animals, livestock, or poultry of any kind may be raised, bred, kept or permitted within any Lot, except dogs, cats, or other household pets provided that they are not kept, bred, or maintained for any commercial purpose or in any unreasonable numbers. The Owner of any dog must keep such dog on a leash when outside of the Lot or keep it confined within the Lot.

(c) Those animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other Owners or residents within the Community. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof and Owners shall be responsible for removal of wastes of their animals from the Lots and Common Areas.

(d) An Owner may be required to remove a pet upon receipt of a written notice from the Board given pursuant to a resolution relating to rules and regulations governing pets within the Community and enforcement of such rules and regulations and provisions of this subsection.

3.4 Lease Restrictions. All leases shall be in writing and be subject to the Governing Documents and any failure by the lessee to comply with the terms of such documents shall be a default under the Lease. Lot Owners shall not be permitted to lease their Units for an initial term of less than thirty (30) days and are subject to the occupancy requirements as outlined in Amendment 5 and 7 to the Community Charter for Daybreak where no Unit may be leased until the Unit has been occupied by the Owner for a continuous period of 12 months. In the event of a failure of a tenant to comply with the Governing Documents, the Owner and tenant shall be jointly and severally liable for any applicable fines and, after reasonable notice from the Association to the Owner of unremedied violations of the tenant, the Association shall be hereby granted intended third-party beneficiary standing under any lease agreement and may initiate eviction proceedings as if the Owner should the Owner refuse to remedy the behavior of a tenant who violates the governing documents.

3.5 Noxious or Offensive Activities. No noxious, offensive or unsightly conditions, including, but not limited to, the placement or storage of inoperable vehicles, car parts and appliances, or activities shall be permitted on any Lot or other portion of the Common Areas, nor shall anything be done in or placed upon any Common Area which interferes with or jeopardizes the enjoyment of other Lots or which is a reasonable source of annoyance to residents.

3.6 Unlawful Activities. No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

3.7 Rubbish and Trash. No part of the Property may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the Property except in a sanitary container screened from public view, except on trash collection days and the 12 hours before a trash collection day. All such waste and garbage must be promptly and periodically removed.

3.8 Vehicles in Disrepair.

(a) No Owner shall permit any vehicle which is in a substantial state of disrepair to be abandoned or to remain parked upon any part of the Property unless such vehicle is within a garage. A vehicle shall be deemed in a substantial state of disrepair when the Board of Directors reasonably determines that its presence offends the occupants of the other Lots.

(b) If an Owner fails to remove a vehicle deemed to be in a substantial state of disrepair after reasonable written notice is securely placed on such vehicle or delivered to the responsible Owner, consistent with the Governing Documents, the Board of Directors may have such vehicle removed from the Property (i.e., towed) and assess the Owner the expense of such removal and any storage necessitated thereby consistent with the Governing Documents.

3.9 Parking. Owners may park only in their designated garages or on public streets in

accordance with all applicable traffic laws and ordinances. No parking is permitted in alleys. No motor vehicle which is inoperable shall be allowed within the Project, and any motor vehicle which remains parked over one (1) day shall be subject to removal by the Association, at the owner's expense. Reasonable temporary guest parking on public streets is permitted, subject to compliance with all applicable traffic laws and ordinances.

The Board of Directors may adopt and amend rules to govern the parking of vehicles in the Common Areas, which rules may include assessing an Owner the expense of removing any automobile, vehicle or equipment parked in violation of any rule or of this subsection and the cost of any storage thereof.

3.10 External Apparatus. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies, or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Board of Directors. No sheds or outbuildings are permitted.

3.11 Solar Panels.

(a) The Association may, in its sole and absolute discretion, allow the installation of a solar panel onto the exterior portion of an owner's Unit, at the Owner's own expense, if (1) the Owner obtains the prior written consent and approval of the Association for the installation of the solar panel; (2) the solar panel is installed a third-party selected by the Owner and reasonably approved by the Association; and (3) by acceptance of a deed to the applicable Unit, the Owner hereby agrees to assume responsibility for, and cover all of the costs associated with, the installation, maintenance, repair and replacement of any such solar panel, and any damage caused to the roof and all roofing components and structure by the installation, maintenance, repair or replacement of the solar panel, and the Owner agrees to pay for the removal of the solar panel (s) in the event that it inhibits the maintenance, repair, or placement of any portion of the roof, wall or exterior portion of the Unit to which it is attached by the Association or another Owner. The obligations imposed on the Owner by this subsection shall also apply to any and all subsequent Owners of the Unit to which the solar panel is to be attached.

(b) The Association may remove, or cause to be removed at the Owner's expense, any solar panel attached to any exterior portion of any Unit within a Building if the Association determines that the solar panel has not been installed, maintained, repaired, replaced, or removed by the Owner of the solar panel in accordance with the provision of this Article.

3.12 Antenna and Dish Policy. Owners are encouraged to use fiber or cable service for television and internet, as available. Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite ("DBS") antennas/dishes one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed; provided the dish and any wires are installed so as to not be visible from the streets. If locating the dish so that it is not visible from the streets precludes reception of an acceptable quality signal, the dish shall be installed with the least visibility from the streets possible. Location of an FCC approved dish may not be restricted by the Association so as to cause unreasonable delay in

installation; unreasonably increase the cost of the equipment or its installation, maintenance, or use; or preclude reception of an acceptable quality signal. No dish may encroach upon the Common Area or the property of another Owner, and any dish installation shall be in compliance with the terms of the Master Residential Declaration, Design Guidelines and Community-Wide Standard.

The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration. The terms "dish" and "antenna" are to be used interchangeably in the interpretation of the above policy.

3.13 Noise Disturbance. Residents shall exercise extreme care to minimize noise and to use musical instruments, radios, televisions, amplifiers, or any other device so as to not disturb other residents. Noise disturbances shall subject the Owner of the Lot from which the noise originates to a fine, as levied by the Board of Directors in its sole discretion.

3.14 Signs. Signs may be posted only in a manner consistent with the Governing Documents.

3.15 Increase in Insurance Cost. Nothing shall be done or kept within any Lot or on the Common Areas, which will increase the cost of insurance to the Association or to other Owners. No Owner shall permit anything to be done or kept within his or her Lot or in the Common Areas which will result in cancellation of insurance on any Lot.

3.16 Structural Alterations. No Owner shall, without the prior written consent of the Board, make or permit to be made any structural alteration, improvement, or addition, including without limitation any fences, walls, decking, patios, pergolas, hot tubs/spas or pergolas, to the exterior of the Unit located on his Lot, or to Maintained Areas on his Lot, without the prior written consent of the Board, which consent may be granted or withheld in the Board's sole discretion, consistent with the terms of the Master Residential Declaration, Design Guidelines and Community-Wide Standard.

3.17 Association Rules and Regulations. In addition to the restrictions and requirements above, as well as any rules and regulations set forth in the Master Residential Declaration or adopted by the Master Residential Association, the Board of Directors from time to time may adopt such Rules and Regulations governing the conduct of persons and the operation and use of the Lots and Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of all property within the Project. Reasonable fines may be levied and collected as an assessment for violations of said rules and regulations and for violations of any restrictions contained in this Declaration. A schedule of fines shall be adopted by the Board of Directors specifying the amounts of such fines, and any other provisions or procedures related to, and prior to, the levying of such fines.

IV MAINTENANCE OBLIGATIONS

4.1 Owner's Responsibility Regarding Buildings and Units. With respect to the maintenance, repair, alteration, and remodeling of Buildings, each Owner shall maintain and be permitted to alter or remodel the interior non-supporting walls, the materials (such as, but not

limited to, plaster, gypsum drywall, paneling, wall paper, paint, wall and floor tile and flooring) making up the finished surfaces of the perimeter walls, ceilings, and floors within such Owner's Unit, including any non-exterior doors and non-exterior windows. Each Owner shall furnish and be responsible for, at such Owner's own expense, all of the maintenance, repairs and replacements within the Owner's Unit. Such obligation shall include, without limitation:

(a) maintenance, repair and replacement of all interior and exterior windows, doors, including interior and exterior caulking (provided that the Association's contractor(s) may caulk as needed and appropriate in connection with an exterior painting project), thresholds, casings and door jams, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, fireboxes of fireplaces and any other materials constituting the finished surfaces of floors, ceilings, or interior walls, except that the Association shall retain the obligation to paint exterior doors, including thresholds, casings and door jams.

(b) maintenance, repair and replacement of all windows and window components including but not limited to window frames, skylights, and door glass or equivalent materials, caulking, and the interior and exterior cleaning of all windows, skylights and door glass, except that the Association shall retain the right and obligation to paint the exterior portion of window frames and window shutters.

(c) maintenance, repair and replacement of all utility lines (such as power, natural gas, water, sewer, telecommunications, cable and any other future utility lines) that serve the Owner's Unit from the point of connection, as well as maintaining, running, insulating, and/or sufficiently heating utility lines and any exterior hose bibs that are exclusively used by that Owner to prevent frozen pipes regardless of whether or not the Owner's Unit is occupied at the time, and any pop up drains located on an Owner's Lots (if located within an Owner's fenced yard), to ensure proper functionality and drainage;

(d) maintenance of decking, patios (inclusive of, but not limited to, posts, balusters, railings, skirting, and steps), backyards, fencing and balconies, exterior screens, shutters and chimney flues, that are within Owner's exclusive control, in a clean and sanitary condition, free of pests and rodents, and in good order and repair (*provided, however*, that the Association shall retain the right to paint or repaint any decking or patios, inclusive of posts, balusters, railings, skirting, and steps, to maintain a harmonious aesthetic appearance in the Project). The Association may seek reimbursement or contribution for any damages arising from the negligent or intentional damage to these areas by an Owner or the Owner's tenants, family members, guests, visitors, or invitees;

(e) maintenance, repair and replacement of the Owner's garage door, including the mechanical systems and all parts of the door, except that the Association shall maintain the exterior painting of the exterior of the garage door. The Association may seek reimbursement or contribution for any damages arising from the negligent or intentional damage to garage doors by an Owner or the Owner's tenants, family members, guests, visitors, or invitees;

(f) maintenance, repair and replacement of the garage interior concrete slab and driveways or driveway apron, except the Association shall repair or replace the garage interior concrete slab if it is determined that damage was caused by adjoining foundation or footing movement. The Owner is also responsible for maintenance of patios, stairs and walkways which server the Owner's Unit exclusively;

(g) maintenance, repair and replacement of all of the following which serve the Owner's Unit exclusively: lighting fixtures (except exterior building mounted lights and walkway lights which are not located within patios and balconies which are not exclusively controlled by the Owner), fans, plumbing fixtures, stoves, refrigerators, hot water heaters, air conditioning units (including compressors, condensers and forced air units), solar panels (subject to the provisions of Section 3.11 above), intercoms, security systems and other such appliances, fixtures and decorations as an Owner may install: and

(h) maintenance repair and replacement of all fences (whether or not installed as part of a Unit).

4.2 Additional Owner Covenants. The Owner shall not alter any utility lines, pipes, wires, conduits or systems that serve one or more other Units. Such utilities shall not be disturbed or relocated by an owner without the written consent and approval of the Board. Such right to repair, alter and remodel is coupled with the obligation to replace any materials removed with similar types or kinds of materials. The Owner shall also maintain the surface of the interior supporting walls, and the Association shall maintain the structural integrity of interior supporting walls. The Owners shall promptly notify the Association in writing of any structural integrity issues concerning the interior of such Owner's respective Unit promptly upon becoming aware of the same. If any Owner fails to promptly notify the Association in a timely manner of structural integrity issues, then such Owner may be responsible for all repair costs, as determined by the Association. An Owner shall maintain and keep in good repair the interior of his or her Unit, including the fixtures thereof. All fixtures and equipment installed within the Unit shall be maintained and kept in good repair by the Owner thereof. An Owner shall do no act and shall perform no work that will or may impair the structural soundness or integrity of the Building in which such Owner's Unit is located, impair any easement or hereditament, or violate any federal, county, city, or any other agency or entity which may have jurisdiction over said Lot/Unit laws, ordinances, regulations and codes. Any expense to the Association for investigation or enforcement under this Article shall be borne by owner if such investigation establishes a violation of this paragraph. Each owner shall be liable to the Association or other Owners for damages to person or property in the Project caused by such Owner's negligence or the negligence of the Owner's tenants, family members, guests, visitors, or invitees.

V. MISCELLANEOUS PROVISIONS

5.1 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Supplement shall be a joint and several responsibility and the act or consent of any one or more

of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board of Directors, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

5.2 Interpretation. All questions of interpretation or construction of any of the covenants or restrictions in this Supplement shall be resolved by the Board, and its decision shall be final, binding and conclusive on all parties affected for all purposes. The covenants, restriction and terms of this Supplement are to be interpreted broadly to give effect to the Association's role as the governing body of the Project and to grant all the powers necessary for management of the common property, administration of the servitude regime, carrying out other functions set forth herein, and furthering the purposes of the Association. The enumeration of specific items, acts, rights, or powers in this instrument does not limit or restrict and is not to be construed or interpreted as limiting or restricting, the general powers granted to the Association or Board except where powers are expressly restricted.

5.3 Premises Liability. From the time that the Common Area, or any portion thereof, is opened and put into use for the enjoyment of Owners, Founder shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners, and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities; inasmuch as the control, operation, management, use and enjoyment, of the common area shall be within, under, and subject to the Association—and not Founder, and an Owner shall defend, indemnify and hold harmless the Founder against such claim, loss or liability asserted by such Owner or his or her guest, invitee, licensee, tenant, or visitor. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the common area facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

5.4 Notice of Sale, Mortgage, Rental, or Lease. Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the Association of the name and address of said grantee, vendee, mortgagee, lessee, or tenant.

5.5 Master Residential Declaration's Full Force and Effect. The Master Residential Declaration and all other Governing Documents remain in full force and effect, provided, however, that in the event of a specific and clear conflict between the Master Residential Declaration and this Supplement, the terms of Master Residential Declaration shall control.