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RICHARD T. MAUGHAN
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DEP RTT REC'D FOR KAYSVILLE CITY

**DECLARATION OF COVENANTS,
CONDITIONS & RESTRICTIONS**

For
Towns on Main at Kaysville, a Planned Unit Development
In Davis County, Utah

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TOWNS ON MAIN AT KAYSVILLE, a Planned Unit Development (this "Declaration") is made and executed as of the last date set forth in the notarized signatures below, by Destination Homes, Inc. (the "Declarant") and Discovery Development, L.L.C. (owner of the Property).

11-908-0001 → 0019

RECITALS:

(A) This Declaration will take effect on the date recorded at the office of the Davis County Recorder's Office (the "Effective Date").

(B) The Discovery Development, L.L.C. is the record owner of certain real property with the Parcel ID number of 110960071, located in Davis County, Utah and more particularly set forth in Exhibit "A" (the "Property"). For any real property owned by Discovery Development, L.L.C. that is subject to this Declaration or becomes annexed into this Declaration or Subdivision, Discovery Development, L.L.C. has appointed Destination Homes, Inc. as the Declarant for the Subdivision, with all the corresponding rights and administrative functions.

(C) Declarant desires to subject the Property to the terms of this Declaration. Declarant intends to develop a residential subdivision on the Property pursuant to the Community Association Act, Utah Code Sections 57-8a-101, *et. seq.* Declarant will develop and convey all 16 of the Lots within the Subdivision subject to a general plan of development, and subject to certain protective covenants, conditions, restrictions, and easements, as set forth in this Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots within the Subdivision. Common Areas and Limited Common Areas are those areas that are depicted in the recorded Plat(s), as amended, and as described in this Declaration. The Subdivision does not constitute a cooperative.

(D) Declarant have deemed it desirable, for the efficient preservation of the values and amenities of the Property, to create an entity which possesses the powers to maintain and administer the Common Areas and otherwise administer and enforce the provisions of this Declaration. For such purposes, Declarant has previously caused to be registered with the Utah Department of Commerce Towns on Main at Kaysville Homeowners Association, Inc.

(E) The Association is governed by the terms of this Declaration, the Articles of Incorporation for Towns on Main at Kaysville Homeowners Association, Inc. and the Bylaws for

PIN 110960071

Towns on Main at Kaysville Homeowners Association, Inc., which Bylaws are attached hereto as **Exhibit "B"** and shall be recorded in Davis County Recorder's Office contemporaneously with the recording of this Declaration.

(F) Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) installation and completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City or County ordinances; and (4) assignment of Declarant's rights under this Declaration in whole or part.

(G) These Recitals are made a part of this Declaration.

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I DEFINITIONS

1.0 Unless the context clearly requires the application of a more general meaning, the following terms, when used in the Declaration, shall have the following meanings:

(A) "Act" means the Community Association Act, Utah Code Ann. Sections 57-8a-101 *et. seq.*

(B) "Architectural Control Committee" or "ACC" shall mean the Architectural Control Committee created by this Declaration, the Bylaws, and/or Articles. In the event no ACC is created, the Board shall carry out any responsibilities of the ACC.

(C) "Assessment" shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in the Governing Documents, regardless of whether said assessment is identified as an assessment, special assessment, individual assessment, reserve assessment, capital improvement assessment, fine, late fee, or other charge.

(D) "Articles" shall mean the Articles of Incorporation, as amended from time to time.

(E) "Association" shall mean Towns on Main at Kaysville Homeowners Association, Inc., and as the context requires, the officers or directors of that Association.

(F) "Board" or "Board of Directors" shall mean the duly elected and acting Board of Directors of the Association.

(G) "Bylaws" shall mean the Bylaws of the Association, as amended from time to time, a copy of which is attached hereto as **Exhibit "B."**

(H) "City" shall mean Kaysville, Utah and its appropriate departments, officials, and boards.

(I) "County" shall mean Davis County, Utah and its appropriate departments, officials, and boards.

(J) "Common Areas" shall mean all property designated on the recorded Plat(s) or described in this Declaration as Common Area, being intended ultimately to be owned by the Association for the common use and enjoyment of all Owners, together with all improvements thereon and all of the easements appurtenant thereto including, but not limited to: open space, private roads, detention basin (if any), private utility lines (not owned and maintained by the City or serving a single Unit), community signage (if any), community mailbox (if any), and visitor parking (if any).

(K) "Common Expenses" means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Areas; (B) providing facilities, services and other benefits to Owners as set forth in this Declaration; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments, charges, fines, penalties and liens imposed pursuant hereto; (E) operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Declaration or the Act.

(L) "Declarant" shall mean and refer to Destination Homes, Inc., and its successors and assigns.

(M) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Towns on Main at Kaysville, together with any subsequent amendments or additions through supplemental declarations.

(N) "Governing Documents" shall mean this Declaration, Bylaws, Articles, Rules, and any other documents or agreements binding upon an Owner.

(O) "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to the buildings, Units, garages, walkways, porches, patios, decks, balconies, driveways, sidewalks, retaining walls, fences, landscaping, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building or Unit.

(P) "Limited Common Area" shall mean all property designated on the recorded Plat

or as described in this Declaration as Limited Common Area, being intended ultimately to be owned by the Association but for the exclusive use and enjoyment of one or more appurtenant Lots but fewer than all of the Lots, which include: driveways, rear patio areas, and privacy fencing (as permitted in the Declaration).

(Q) "Lot" shall mean any numbered building lot, including the Unit, shown on any official and recorded Plat(s), including all Improvements located thereon.

(R) "Manager" shall mean any entity or person engaged by the Board of Directors to manage the Project.

(S) "Member" shall mean and refer to every person who holds membership in the Association, including an Owner and the Declarant as set forth herein.

(T) "Owner" shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Davis County, Utah) of a fee simple or an undivided interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary of trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof. Owner may include a non-natural, but legally recognized entity, such as a limited liability company, corporation, partnership, limited partnership, trust, and/or other legally entity recognized by Utah State law. Accordingly, such an Owner may designate a natural person of its selection as Owner's agent to serve and act in the Owner's place. Notwithstanding the foregoing, an Owner may designate only one natural person to serve as its agent at any one time.

(U) "Party Wall" shall have the meaning set forth in the Declaration.

(V) "Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

(W) "Plat(s)" shall mean an official and recorded plat of Towns on Main at Kaysville, including all subsequent phases, if any, when recorded, as approved by the City, and recorded in the office of the Davis Recorder, as it may be amended from time to time.

(X) "Property" shall have the meaning set forth in the recitals.

(Y) "Rules" mean any instrument adopted by the Board for the regulation and management of the Association as provided in the Governing Documents.

(Z) "Subdivision" or "Project" shall mean the Towns on Main at Kaysville, all Lots, and other property within the Subdivision, as shown on the Plat(s) and any future Plat(s) covering the Property.

(AA) "Subdivision Improvements" shall mean all improvements to be installed outside the boundaries of Lots or within easements as identified on the Plats that are necessary to provide public road access and/or private road access and utility service to the Lots and including other construction work required to comply with any conditions of City or County or other governmental agencies to the approval of the Subdivision or any Plat(s) thereof.

(BB) "Unit" shall mean the single-family residence built or to be built within Subdivision as identified on the Plat, together with the structure itself and all Improvements located within or without the Unit used in connection with such residence such as electrical receptacles and outlets, air conditioning compressors and apparatus, furnaces, fixtures, and the like that serve that Unit shall be considered part of the Unit. All pipes, wires, conduits, or other public utility lines or installations serving only the Unit shall be part of the Unit, whether or not such item is located within the Unit. Multiple Units may be contained in a building and may share Party Walls. Units expressly include the roofs, foundations and exterior walls. Despite an Owner's ownership of a Unit, certain insurance and maintenance responsibilities for the Units may be performed by the Association, as set forth in this Declaration.

ARTICLE II EASEMENTS

2.1 Easement Concerning Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom, or encumbered, pledged, assigned, or otherwise alienated by an Owner. Any Owner may temporarily delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Owner's Lot. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

2.2 Easement Concerning Limited Common Area. The Association shall have a non-exclusive easement for any utility or any required maintenance in and through the Limited Common Area. With the exception of the rights and easements granted to the Association, the Owner(s) of a Lot shall have the exclusive use of all Limited Common Area appurtenant to their Lot.

2.3 Limitation on Easements. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

- (a) The right of the Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Lots by every

Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;

(b) The right of the Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.

(c) The right of the City, County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, utility access/installation, and providing any other governmental or municipal service.

2.4 Reservation of Access and Utility Easements. Declarant hereby reserve an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a City and County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights.

2.5 Easements for Encroachments. If any part of the Common Areas as improved by Declarant now or hereafter encroaches upon any Lot or if any structure constructed by Declarant on any Lot now or hereafter encroaches upon any other Lot or upon any portion of the Common Area, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon any other Lot or upon any portion of the Common Area due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

2.6 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Units on Lots, (b) to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, or other property in the Project, (c) improvement of the Common Area, and construction, installation and maintenance thereon of roadways, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Owners, and (d) construction, installation and maintenance on lands within, adjacent to, or serving the Property of roadways, walkways, and other facilities, planned for dedication to appropriate governmental authorities.

2.7 Easement in Favor of Association. The Lots and Common Areas are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees, and independent contractors:

(a) For inspection during reasonable hours of the Lots, Limited Common Areas, and Common Area in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;

(b) For inspection, maintenance, repair, and replacement of portions of the Units, Limited Common Areas, and/or Common Areas as required by the Declaration; and

(c) For correction of emergency conditions in the Subdivision

2.8 Landscaping Easement. The Association shall have an easement and related access rights in order to maintain the Common Area landscaping or any other landscaping that is the Association's responsibility.

2.9 Income generated from negotiation, installation or provision of certain utilities and amenities. Declarant and/or Declarant Related Entities invest time, experience, infrastructure and/or capital in the negotiation, provision or installation of certain utilities and amenities (e.g. internet, cable, fiber, phone, solar power, etc.) that provide services and benefits to owner in the Project that would not otherwise be available or at a reduced cost. Any income gained by these parties from these efforts may be retained by the Declarant, Declarant Related Entities, or their assigns, even after the Declarant Control Period. The Association may enter into contracts with third parties related to the provisions of such utilities and amenities for the benefit of Owners in the Project, which utilities and amenities may be paid for through Assessments. Owners contracting separately with individual third-party providers will still be required to pay any normal and customary access fee for applicable bulk rate contract services entered into by the Association.

ARTICLE III
COMMON AREAS, LIMITED COMMON AREAS, UNITS
& PARTY WALL MAINTENANCE

3.1 Common Areas. Except as otherwise provided in this Declaration, the Association, or its duly designated agent, shall maintain, repair and replace all Common Areas, including, without limitation, the Improvements and landscaping located thereon in good order and repair and shall otherwise manage and operate all Common Areas as it deems necessary and appropriate.

(a) Landscaping. The Association shall contract with a third party to perform general landscaping maintenance within Subdivision, which generally includes mowing and edging. The Association may adopt Rules to add further detail with regard specific landscape maintenance services provided by the Association (including any landscaping responsibilities located on a Lot) and those responsibilities of Owners

concerning items including, but not limited to: gardens, flowerbeds, bushes, trees, and other landscaping elements.

- (b) Snow Removal. The Association may adopt Rules governing snow removal in the Subdivision.

3.2 Limited Common Areas. Owners shall maintain, repair and replace all Limited Common Areas following necessary approvals from the Association.

3.3 General Rules of Law to Apply to Party Walls. Each wall which is built as a part of the original construction of a Unit within the Project and placed on the dividing line between two Units shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of the Act, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

3.4 Party Wall Maintenance. Each Unit that shares one or more Party Wall(s), will also share elements of a common roof, a common exterior wall, or other common exterior elements with adjacent Unit(s). The Owners acknowledge that certain repairs or maintenance to Units with a Party Wall(s) may become necessary, which repairs, or maintenance may not be able to be performed on one Unit only.

3.5 Destruction of Party Wall; Common Roof or Exterior. If a party wall or common improvement is damaged or destroyed by the fault of negligence of one of the Owners, such damage shall be repaired by the Association to the condition equal to or better than immediately prior to the damage and the negligent Owner or Owner at fault shall reimburse the Association for any and all costs incurred by the Association to cure the damage. Should a party wall be damaged or destroyed by any cause other than by default or by an act of negligence of an Owner of the adjacent Unit, the damage shall be rebuilt or repaired to a condition equal to or better than immediately prior to the damage, at the joint expense of the owners of the two affected Units, provided that any amount received from insurance companies for such damage shall first be applied to the restoration of the affected Units. Should a common roof or any part of the exterior wall(s) be damaged or destroyed by any cause other than by fault or by an act of negligence of an Owner of the adjacent Unit, the damage shall be rebuilt or repaired by the Association to a condition equal to or better than immediately prior to the damage, at the expense of the Association, provided that any amount received from insurance companies for such damage shall first be applied to the restoration of the affected Units.

3.6 Party Wall Insurance. The existence of Party Walls within the Project will require blanket property insurance coverage as required by the Governing Documents and/or Act on all attached Units.

3.7 Association Maintenance of Units. The Association shall maintain, repair, and replace the roofs, shingles, rain gutters and downspouts for all buildings (which include the Units), and the normal wear and tear on exterior wall finishes of the buildings (which include the Units).

All necessary structural repairs of roofs and exterior walls will remain the financial responsibility of the affected Owners but may be organized and/or carried out by the Association, as determined by the Association. Exterior wall maintenance by the Association does not include: doors, doorframes, garage doors, windows, window frames, window wells, skylights, patio doors, or glass of any kind. All other components or Improvements within the Lot, including the Unit, that are not specifically assigned to the Association herein shall be maintained by Owners. It is the obligation of each Owner to maintain their Lot and Improvements located thereon in a clean and sanitary condition and uncluttered in order to preserve and enhance the enjoyment of the Project.

3.8 Repairs by Association. In the event that an Owner permits his Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary, or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 15 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision, plus 15%. In addition, each Owner hereby grants to the Association a lien on the Lot and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

3.9 Alterations of Exterior Appearance. No subsequent exterior alterations, improvements, or remodeling will be made without the advance consent of the Board. Declarant shall be exempt from this provision.

3.10 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Improvements may be constructed as they existed prior to the damage or loss without review by the Board, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage before re-construction begins. Such temporary measures may be taken without the consent or approval of the Board, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. Unless delayed by City/County approval or insurance carrier approval, no damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

3.11 Maintenance Chart. For the convenience of Owners, a Maintenance Chart is included as **Exhibit C**. In the event of a conflict between the Maintenance Chart and this Article, this Article shall control.

ARTICLE IV
MEMBERSHIP, VOTING & CONTROL PERIOD

4.1 Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Lot and such membership shall automatically terminate when the Owner cease to have an ownership interest in the Lot. Upon the transfer of an ownership interest in a Lot the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Lot is held. Notwithstanding the foregoing, the Declarant shall also be granted voting rights as a Class "B" Member, as defined below.

4.2 The Association shall have two (2) classes of voting membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Class "A" membership shall be entitled to one (1) equal vote for each Lot in which they are an Owner. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Association that Person shall be entitled to cast all votes appertaining to that Lot. But if more than one of such Person(s) is present, the votes appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Lot may not be divided between Owners of such Lot or with respect to matters before the Association, and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.

(b) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive one hundred (100) votes for each recorded Lot owned by Declarant. The Class "B" membership shall also be entitled to appoint the members of the Board and Association during the Class "B" Control Period.

4.3 The Class "B" Control Period runs until ninety (90) days after the first to occur of the following:

(a) When the total number of votes for the Class B Member is less than the total

number of votes for the Class A Members; or

(b) When, at its discretion, the Class B Member so determines.

4.4 Notwithstanding anything to the contrary in this Declaration, Declarant may exercise its discretionary termination of control in whole or in part as to any portion of the Subdivision at its sole election and determination. In doing so as to a portion of the Subdivision, it does not waive any reversionary or remaining control as to all other portions of the Subdivision, the control of which is not expressly terminated by Declarant.

ARTICLE V HOMEOWNER ASSOCIATION

5.1 Organization. The Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation.

5.2 Enforcement Powers. The Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against an Owner and their Lot; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense; (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law.

(a) The Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Project at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.

(b) The Association shall have the authority to initiate and compromise claims and litigation on behalf of the Association resulting from the enforcement of the Governing Documents. In the event that the Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

(c) The Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action; otherwise enforce the Governing Documents; or when and how to settle or compromise claims.

5.3 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses, and Common Expenses of the Association. The Association has the power to levy assessments against each Lot as necessary to carry out its functions. The Association may also utilize credit, lending, and other options when necessary. Assessments shall be levied against all Lots in the Property, whether vacant or improved. Each Owner shall by acquiring or in any way becoming vested with his/her interest in a Lot, be deemed to covenant and agree to pay to the Association the assessments described in these covenants, together with late payment fees, interest, and costs of collection (including reasonable attorney fees), if and when applicable.

(a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners 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 in 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 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 therefor.

(b) Special Assessment. The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas.

(c) Individual Assessment. The Association may levy individual assessments on every Lot, Owner or occupant that shall cause any damage to the Project or otherwise causes the Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance, or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Lot(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.

(d) Reserve Fund. The Association may levy a reserve fund assessment.

(e) The Association may levy other assessments or fees, as authorized by the Governing Documents.

5.4 Budget. The Board is authorized and required to adopt a budget annually. The Board may revise the approved budget from time to time as necessary to accurately reflect actual and/or anticipated expenses that are materially greater than previously budget. The budget shall estimate and include the total amount for the Common Expenses, shall contain an appropriate amount for reserves, and may include an amount for other contingencies. The budget shall also be broken down into reasonably detailed expense and income categories. Unless otherwise established by the Board, regular Assessments shall be paid in equal monthly installments.

5.5 Reserve Fund Analysis. Following the Class B Period, the Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years to analyze the cost of repairing, replacing, or restoring Common Area that have a useful life of three years or more and a remaining useful life of less than 30 years. This reserve analysis should be reviewed no less frequently than every three (3) years and updated if necessary. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

5.6 Reserve Fund Account Creation. The Board shall create a reserve fund account that is separate and distinct from the Association's general account, which account shall be funded from the reserve fund assessments. The amount of the reserve fund assessment shall be a separate line item in the approved budget. The Board shall cause an assessment to be made against all Owners in an amount sufficient, within the Board's discretion, to fund the reserve account.

5.7 Reinvestment Fee. The Board shall have power to levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the amount of one half of one percent (.005) of the sales price or fair market value of the Lot at the time of transfer. In its discretion, the Board may adopt from time to time, by resolution, a lesser amount as determined by the Board. The Declarant shall not be subject to the Reinvestment Fee.

5.8 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Lot on the first day of the first month following the effective date of the first budget. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide. Notwithstanding, Assessments for those Lots owned by Declarant or their assigns, successors, subsidiaries, related construction entities, or other entities established by Declarant, or Declarant's members, for the purpose of constructing Units on the Lot (collectively "Declarant's Related Entities") shall not commence until the completed Unit is conveyed to an Owner that is not the Declarant or a Declarant's Related Entity. No amendment of this Declaration changing the allocation assessments with regard to Declarant or Declarant's Related Entities shall be valid without the consent of the Declarant.

5.9 Fines. Following notice as required by the Act, the Association shall have the power to assess a fine against an Owner (or their Lot) for a violation of the terms and conditions of the Governing Documents in an amount set by the Board.

5.10 Hearing Process. The Board shall have authority to create a reasonable hearing process, consistent with the Act, applicable when the Association takes an adverse action related to any particular Owner(s).

5.11 Association Rules. The Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing: (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals in the Project; (e) collection policies and procedures; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents, as deemed necessary by the Board. The Rules may supplement, clarify, and add detail to issues addressed in Governing Documents. However, the Rules may not contradict the Governing Documents.

- (a) During the Class B Period, Declarant shall be exempt from the rule making procedure required by Utah Code § 57-8a- 217.

5.12 Statement of Account & Payoff Information. Upon a written request from an Owner that the Association provide the Owner with a statement of his/her account, the Association may charge a fee, not to exceed \$10.00, for providing such statements. In addition, when a request is made to the Association to provide payoff information needed in connection with the financing, refinancing, or closing of a Lot Owner's sale of his/her Lot, the Association may charge a fee not to exceed \$50.00.

ARTICLE VI NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE

6.1 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by: suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Act.

6.2 Due Date, Charges & Interest. Unless otherwise established by the Board through adopted policies, monthly assessments shall be due and payable on the first of each month and late if not received by the 15th of each month. The Board may charge a late fee in an amount set by the Board. In addition to late fees, interest at 18% per annum may accrue on all unpaid balances. The Board may also impose other reasonable charges imposed by a Manager related to collections.

6.3 Lien. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first or second mortgage of record made in good faith and for value recorded prior to a recorded notice of lien by the Association.

6.4 Foreclosure. The Association shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Lot not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

6.5 Other Remedies. All rights and remedies of the Association shall be cumulative, and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One Action Rule" shall not be a defense to the enforcement of all rights and remedies of the Association. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

6.6 Payment by Tenant. The Association shall be entitled to demand and collect from a tenant of any Lot, the amount of any assessment that is more than sixty (60) days past due.

6.7 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Lot(s).

6.8 Appointment of Trustee. The Declarant hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Burt R. Willie, Esq., a licensed member of the Utah State Bar, with power of sale, the Lot, and all Improvements to the lot for the purpose of securing payment of assessments under the terms of this Declaration.

ARTICLE VII USE LIMITATIONS & RESTRICTIONS

7.1 Single Family. All Lots shall be used only for single-family residential purposes. "Single Family" shall mean one household of persons related to each other by blood, marriage, or adoption, or one group of not more than one unrelated individual per bedroom.

7.2 Zoning Regulations. The lawfully enacted zoning regulations of the City and/or County, and any building, fire, and health codes are in full force and effect in the Project. No Lot may be occupied in a manner that is in violation of any statute, law, or ordinance.

7.3 Acceptable Business Uses. The Declarant, or other builders, may use one or more

Lots for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until 100% of the Lots are sold in the Subdivision, whichever occurs later. An Owner may use their Lot for a home occupation in accordance with City or County ordinance. Notwithstanding, businesses, professions or trades may not: require heavy equipment, create a nuisance within the Project, create unreasonable noise or smells, or unreasonably increase the traffic flow to the Project.

7.4 Passenger Vehicles and Recreational Vehicles & Equipment. The Association may adopt rules further governing the parking and storage of all vehicles in the Project.

- (a) Recreational Vehicles & Equipment shall include, but is not limited to: watercraft, boats, trailers, motorhomes, buses, RVs, campers, camper vans, fifth wheel trailers, side-by-sides, atvs, snowmobiles, dirt bikes, maintenance equipment, commercial vehicles and equipment, and large trucks and other vehicles (over 23 feet in length, seven feet in width, or seven feet in height).
- (b) Passenger Vehicles are broadly defined to include all motorized vehicles of any type that are not defined as Recreational Vehicles & Equipment, generally including all commonly sized passenger vehicles.

7.5 Animals. No animals, livestock, or poultry of any kind shall be raised, kept, or bred for any commercial purpose. All animals in the Project shall be maintained as required by the laws and ordinances of the City. The Association may adopt rules further governing the animals in the Subdivision.

7.6 Maintenance of Property. All Units and the Improvements on them shall be maintained in a clean, sanitary, and attractive condition at all times. No unsightliness is permitted on any Unit. This shall include, without limitation, the open storage of any building materials (except during construction of Improvements) open storage or parking of construction equipment, or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as garbage bins; lawn or garden furniture, except during the season of use; and the storage or accumulation of any other material, vehicle, or equipment on the Unit in any visually unappealing manner. No clothes lines, service yards, or storage yards shall be permitted.

7.7 Trash and Rubbish. All Units shall be kept free of rubbish, weeds, and other unsightly items, and shall be maintained in such a manner as not to detract from the residential quality of the Subdivision. Trash, rubbish, garbage, or other waste shall not be kept except in covered containers. The Board may adopt further rules and policies governing trash containers and collection.

7.8 Fencing. No fence, wall, hedge, or other dividing structure may be installed

without the prior, written consent of the Board.

7.9 Exterior Antennas, Dishes & Energy Conservation Equipment. Prior, written approval from the ACC, as to the location, size, color, type, and related infrastructure of any new satellite dishes, antennas, exterior cable installation, solar energy equipment, generators and related hardware is required. Consistent with the Act and any applicable federal regulations, the ACC may establish recommended sizes and locations for any such Improvements. Such exterior equipment no longer in use must be removed immediately upon the cessation of the service.

7.10 Declarant to Construct Units. All initial construction of Improvements for Units and the Common Area shall be performed by Declarant (or those contracted by Declarant), with any exceptions requiring the written consent of Declarant. At any time during the Class B Control Period, Declarant need not submit or receive any approval from the Board.

7.11 Combination of Units. No Unit may be combined with another Unit without the consent of the Board.

7.12 No Short Term or Nightly Rentals. Daily, nightly, weekly or monthly occupation is prohibited (whether pay or not), and Units shall not be advertised or listed for short term rental on such sites as Airbnb, VRBO, HomeAway, Flipkey, Wimdu, House Trip and similar international, national or local providers.

7.13 Long Term Leasing. Any occupancy by tenant(s) for longer than six months shall be considered a long-term lease. Any long-term lease shall be in writing, shall be for an initial term of at least six months, and shall provide as a term of the agreement that the occupant shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease. If a lease does not include these provisions, they shall nonetheless be deemed to be part of the lease and binding on the Owner and the occupant.

- (a) An Owner shall provide the Board with information identifying the occupants, vehicles, phone numbers, and other applicable contact information.
- (b) A copy of any lease agreement shall be delivered to the Association prior to occupation by the tenants.
- (c) An Owner must reside in a Unit for at least one year before a Unit may be rented.
- (d) Less than the entire Unit may not be rented (no room rentals are allowed).
- (e) Long Term Leasing for an otherwise qualifying Unit shall be limited to no more than two of the total Units. As 100% of the Owners are approving this restriction at the time of this recording, no exceptions shall be given to exceed the two total Units.
- (f) The Owner(s) of a Unit shall be responsible for the occupant's or any guest's compliance with the Governing Documents. In addition to any other

remedy for noncompliance with this Declaration, the Association, following notice to the Owner, shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending non-owner occupant. The Association, the Board, and the Manger shall not have any liability for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph. For purposes of this subparagraph, each Owner in accepting the deed to a Unit expressly consents to such authority and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments and pursue any and all remedies available to remove the offending non-owner occupant.

- (e) The Board of Directors may adopt Rules requiring:
- (i) Reporting and procedural requirement related to non-owner-occupied Units; and
 - (ii) Other reasonable administrative provisions consistent with, and as it deems appropriate to enforce, the requirements of this Declaration.

ARTICLE VIII **ARCHITECTURAL CONTROL COMMITTEE**

8.1 Architectural Control Committee. Following the Class B Control Period, the Board may appoint a three-member Committee, the function of which shall be to ensure that all remodeling or modification to Improvements and landscaping originally installed by the Declarant harmonize with existing surroundings and structures. If such a Committee is not appointed the Board shall perform the duties required of the Committee.

8.2 Submission to Committee. Following the Class B Control Period, no Dwelling, accessory building or structure, addition, landscape changes shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Dwelling shall be performed, unless plans and specifications therefor have first been submitted to and approved by the Committee. All such plans and specifications shall be consistent with Architectural Guidelines which shall be from time to time adopted by the Board.

8.3 Approval Procedure. Any plans and specifications submitted to the Committee shall be submitted on a form provided by the Committee. A preliminary review of design drawings will be required with a final review to be made of working drawings. Upon completion of each review, one set of plans will be retained by the Association, one set will be retained by the reviewing architect (if any) and the remaining set of plans will be returned to the property owner. All plans and specifications shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such period it shall be deemed to have approved the material

submitted provide such plans otherwise comply with the Governing Documents.

8.4 Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion. The exterior construction of all structures on any Lot shall be completed within a period of one (1) year following commencement of construction.

8.5 Liability for Damages. The Owner is responsible for any and all damage to concrete, sidewalks or subdivision infrastructure. The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article.

8.6 Exception for Declarant and Declarant Related Entities. The foregoing provisions of this Article shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant or Declarant Related Entities on any Lot or on any part of the Common Areas and which occurs at any time during Class B Control Period.

8.7 Approved Builder. During the Class B Control Period, only contractors approved in advance by Declarant, in their sole discretion, may construct Improvement(s) upon the Lots.

ARTICLE IX INSURANCE

9.1 Insurance Requirement. The Association shall obtain insurance as required in this Declaration and as required by the Act. 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.

As used in this Article:

- (1) "Covered Loss" means a loss, resulting from a single event or occurrence that is covered by the Association's property insurance policy.
- (2) "Unit Damage" means damage to a Unit.
- (3) "Unit Damage Percentage" means the percentage of total damage resulting in covered loss that is attributable to Unit Damage.

9.2 Property Insurance.

(a) Hazard Insurance.

- (i) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas, Limited

Common Areas, Buildings and Units.

- (1) Any 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.

(b) Flood Insurance. If the property insured by the Association is not situated in a Special Flood Hazard Area, the Association may nonetheless, if approved by a majority of Owners, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

(c) Earthquake Insurance. The Association may, if approved by a majority of Owners, purchase earthquake insurance to cover earthquakes not otherwise covered by blanket property insurance.

(d) Associations Obligation to Segregate Property Insurance Deductible. The Association shall keep an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.

(e) Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association's property insurance policy deductible the Association need not tender the claim to the Association's insurer.

9.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, 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) covering all claims for death of or injury to any one person or property damage in any single occurrence.

9.4 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). The policy shall:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;

- (c) 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
- (d) Provide coverage for defamation. In the discretion of the Board of Directors, 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.

9.5 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association may obtain insurance covering the theft or embezzlement of funds.

9.6 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association; and shall not be payable to a holder of a security interest. 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 proceeds remaining 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 Units. Each Owner hereby appoints the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and 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 representative, successors or assigns of an Owner.

9.7 Owner Act Cannot Void Coverage under Any Policy. An Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

9.8 Owners' Individual Coverage. **EACH OWNER SHOULD PURCHASE INDIVIDUAL INSURANCE COVERAGE IN THE AMOUNT RECOMMENDED BY THE OWNER'S INSURANCE AGENT.**

9.9 If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

ARTICLE X
MISCELLANEOUS PROVISIONS

10.1 **Condemnation.** Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation), the Board may act on behalf of the Association in negotiating and completing such transaction.

10.2 **Damage & Destruction.** Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board, or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

- (a) Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.
- (b) In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association, in a neat and attractive condition.
- (c) If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

10.3 Repurchase Option for Construction Defect Claims. In the event any Owner shall commence action against Declarant or Declarant' Related Entities for the purpose of constructing Units on the Lot (collectively "Declarant") in connection with any alleged construction defects in such Owner's Unit, Declarant shall have the option, but not the obligation, to purchase such Unit on the following terms and conditions:

(a) The purchase price shall be an amount equal to the sum of the following, less any sums paid to such Owner under any homeowner's warranty, in connection with the alleged defect:

- (i) The purchase price paid by the original Owner of the Unit & Lot when originally purchased from Declarant;
- (ii) The agreed upon value of any improvements made to the Unit by anyone other than Declarant; and
- (iii) The Owner's reasonable moving costs.

(b) Close of escrow shall occur not later than forty-five (45) days after written notice from Declarant to the Owner of Declarant' intent to exercise the option herein.

(c) Title shall be conveyed to Declarant free and clear of all monetary liens and other encumbrances other than non-delinquent real estate taxes.

(d) Exercise of the repurchase option as provided for herein above shall constitute full and final satisfaction of all claims relating to the subject Unit and Lot. The Owner shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

(e) Declarant's option to repurchase granted herein with respect to any particular Unit and Lot shall automatically terminate upon the expiration of the last applicable statute of limitations applicable to any construction or warranty claim governing such Unit and Lot including all applicable tolling periods.

10.4 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

10.5 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Unit, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do

all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

10.6 No Representations and Warranties. Each Owner and occupant understand, agrees, and acknowledges through taking title or residing in the Project that the Declarant, Association, and the Board have not made any representations or warranties of any kind related to the Project and that each Owner or occupant has not relied upon any reorientations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose relative to the Project.

10.7 Amendment. At any time while this Declaration is in effect, the covenants herein contained can be modified by the Declarant or Declarant's successors and assigns during the Class B Control Period at the sole discretion of the Declarant. Thereafter, the covenants herein contained can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the total votes of the Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

10.8 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Project is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Declaration against his/her Lot, whether or not there is any reference to this Declaration in the instrument by which he/she acquires interest in any Lot.

10.9 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Project. Headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

10.10 Right to Modify Lot Boundaries and Interior Boundary Lines. Declarant reserves the unilateral right to modify Lot boundaries and interior boundary lines and/or combine Lots or Units so long as it owns the Lots; provided, however, such changes may not extensively alter the boundaries of the Common Area and facilities nor change the percentages of ownership interest.

14.11 Violation Deemed a Nuisance. Any violation of these covenants that is permitted to remain on the Property is deemed a nuisance and is subject to abatement by the Association.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Association. In any action brought


to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including reasonable attorney fees and court costs.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

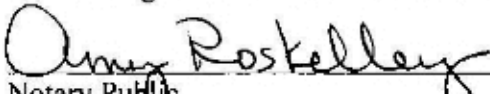
(d) The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.

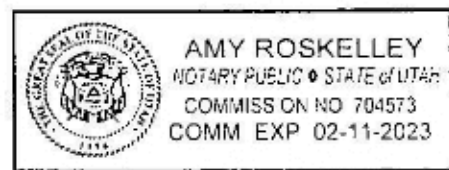
Destination Homes, Inc., the Declarant


By: Scott Lalli
Its: Authorized Representative

STATE OF UTAH)
 Weber : ss
COUNTY OF ~~DAVIS~~)

On this 14th day of April, 2022, personally appeared before me Scott Lalli, who being by me duly sworn, did say that he is an authorized representative of Destination Homes, Inc., and that the within and foregoing instrument was signed on behalf of said corporation and duly acknowledged to me that he executed the same


Notary Public
Residing at: Weber County
My Commission Expires: 2-11-2023



Discovery Development L.L.C., the owner of the Property

Scott Lalli
By: Scott Lalli
Its: Authorized Representative

STATE OF UTAH)
 : ss

COUNTY OF Weber

On this 14th day of April, 2022, personally appeared before me Scott Lalli, who being by me duly sworn, did say that she is an authorized representative of Discovery Development, L.L.C., and that the within and foregoing instrument was signed on behalf of said limited liability company and duly acknowledged to me that she executed the same

Amy Roskelley
Notary Public
Residing at: Weber County
My Commission Expires: 2-11-2023

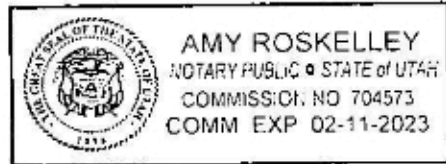


Exhibit "A"
Legal Description

A parcel of land situated in the Northeast Quarter of Section 33 and the Southeast Quarter of Section 28, Township 4 North, Range 1 West, Salt Lake Base and Meridian, said parcel also located in Kaysville City, Davis County, Utah.

Being more particularly described as follows:

Beginning at a point on the southerly line of a parcel of land conveyed in a warranty deed and recorded as Entry No. 1182300 in Book 1879, Page 1578 in the Davis County Recorder's Office, said point being South 00°33'50" East 66.55 feet along the section line (NAD 83 bearing being South 0°13'50" East between the Northeast corner of said section 33, per the Davis County Township Reference Plat) and South 89°26'10" West 126.46 feet from the Northeast Quarter Corner of said Section 33 and running thence:

thence South 40°57'10" West 266.52 feet to the northerly right-of-way line of Main Street;
thence North 48°12'00" West 181.84 feet along said northerly line to the southerly right-of-way line of Mutton Hollow Road;
thence North 40°57'10" East 264.89 feet along said southerly line to the aforementioned southerly line of that parcel of land conveyed in a warranty deed and recorded as Entry No. 1182300 in Book 1879, Page 1578 in the Davis County Recorder's Office;
thence South 48°42'47" East 181.84 feet along the southerly line of said parcel to the Point of Beginning.

Contains: 48,316 square feet or 1.109 acres.

Parcel ID # 110960071

Exhibit "B"
Bylaws

BYLAWS OF TOWNS ON MAIN AT KAYSVILLE ASSOCIATION, INC.

The following are the Bylaws of Towns on Main at Kaysville Homeowners Association, Inc. ("Bylaws"), a Utah nonprofit corporation ("Association"). Upon recordation of these Bylaws, they are binding upon the Association and all present and future Owners and/or occupants.

ARTICLE I - DEFINITIONS

Section 1.1 Definitions. All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions & Restrictions for Towns on Main at Kaysville, a Planned Unit Development of even date and recorded in the Official Records of the Davis County Recorder's Office, as amended ("Declaration").

ARTICLE II - MEETINGS OF OWNERS

Section 2.1 Annual Meetings. An annual meeting of the Owners shall be held no less than once each calendar year at a location and time designated by the Board of Directors ("Board"). The Board may set the date, time, and location of the annual meeting in accordance with Section 2.3 below, which locations may include virtual or electronically held meetings through available technology.

Section 2.2 Special Meetings. Special meetings of the Owners may be called at the request of the Board, or upon written request of the Owners holding at least fifty-one percent (51%) of all eligible votes. Notwithstanding, the Board remains the only authorized body to act for and on behalf of the Association.

Section 2.3 Notice of Meetings. Unless an Owner requests in writing that all notices be provided to said Owner by U.S. mail, all notices shall be given by, or at the direction of, the Board via electronic communication, which may include but is not limited to: email, text, voicemail, or posted on the community website (if applicable). Notice shall be provided at least ten (10) days before a meeting, but no more than sixty (60) days, to each Owner at the email or electronic address provided by the Owner. Said notice is effective upon sending the email or electronic communication. Notices provided by U.S. mail shall be sent via U.S. First Class Mail and effective upon deposit in the mail. Such notice shall specify the location, day and time of the meeting, and, in the case of a special meeting, the purpose of the meeting.

- (a) Upon becoming an Owner of the Association, or upon the written request by the Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Association unless the Owner has opted out by providing a written request for notice by U.S. Mail. If no address is registered with the Association, an Owner's Lot address shall be deemed to be his registered address for purposes of notice.

- (b) The location of meetings may also occur virtually, telephonically, or through other available technology.

Section 2.4 Quorum. Unless otherwise specifically set forth in the Declaration, at any meeting of Owners, a quorum shall be established by those Owners present, in person or by proxy, at a properly noticed meeting. Notwithstanding, the Board remains the only authorized body to act for and on behalf of the Association. Further, a majority of those Owners present in person or proxy at such meeting may vote to reschedule the meeting based upon low attendance. Otherwise, the meeting shall proceed as scheduled.

Section 2.5 Proxies. At all meetings of Owners, each Owner may vote in person or by proxy. All proxies shall be in writing, signed by the Owner, and filed with the Board at or before said meeting. Notwithstanding, any proxy delivered to the Board at the meeting must be provided no later than any point in the meeting announced as the final time to deliver proxies. The proxy form provided with any notice of meeting may also provide an additional requirements and a deadline to return proxies. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of his Lot. If conflicting proxy votes for an Owner or Lot exist, said proxy votes will not be counted.

Section 2.6 Conduct of Meetings. The Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain minutes of all meetings. The Board may adopt further policies and procedures with regard to conduct at an Association meeting.

- (a) **Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Association or Board meeting, work session or similar event regardless of the location without the written consent of the Association.

Section 2.7 Action Taken Without a Meeting. Under the direction of the Board, any action that may be taken at any annual or special meeting of Owners may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners eligible to vote on the action were present and voted, unless a different approval percentage for the action is specifically set forth in the Declaration. The Board may obtain such approvals and conduct business through mail or email/electronic ballots.

Ballots shall set forth each proposed action and provide the option of voting for or against each proposed action. The ballot must specify the period of time, up to 120 days, during which the Association shall accept written ballots. Following this period, the Association shall provide notice if such action was approved.

Section 2.8 Voting. Only an Owner that is current on all assessments and charges due and owing at least thirty (30) days prior a duly noticed meeting shall be deemed in good

standing and eligible vote. The Association shall have two (2) classes of voting membership, Class "A" and Class "B," as set forth in the Declaration.

The number of votes for each Lot shall be in accordance with the Declaration.

The votes appurtenant to any one Lot may not be divided between Owners of such Lot and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the Owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot. The Association shall honor the vote of: a duly authorized trustee or successor trustee of a trust that is an Owner; the duly authorized representative of a legal entity that is an Owner; and shall honor the vote of an individual that is a holder of a Limited or General Durable Power of Attorney with respect to an Owner as though such vote were the vote of the Owner.

ARTICLE III - BOARD, SELECTION AND TERM OF OFFICE

Section 3.1 Number & Tenure. Except for the Initial Board selected by Declarant, which consists of three members and their successors, that may hold office during the Class B Control Period, the affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals. At the first meeting of the Owners at which the election of Directors will take place following the Class B Control Period, the candidate who receives the most votes shall serve as a Director for three (3) years. The candidate that receives the second highest number of votes shall serve as a Director for two (2) years, and the third candidate who receives the third highest number of votes shall serve as Director for one (1) year. At each annual election, the successor to the Director whose term shall expire in that year shall be elected to hold office for the term of (3) years. Any change in the number of Directors may be made only by amendment of these Bylaws. The members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation or removal.

Section 3.2 Advisory Board Member. During the Class B Control Period and prior to turnover of the Association to Owner control, the Declarant and/or Board may identify an owner(s) to be an advisory member of the Board and participate in Board meetings and activities. This advisory member(s) shall not vote.

Section 3.3 Eligibility. Following the Class B Control Period, all members of the Board shall be Owners or an Owners' spouse or legal partner that resides with Owner in the Unit. Notwithstanding, only one member of a single household can be a member of the Board at any one time.

Section 3.4 Resignation & Removal. A Director may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director, except during Class B Control Period, may be removed from the Board with or without cause by a majority vote, a quorum being present, at a special meeting called for such purpose. In

the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

Section 3.5 Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for actual and approved expenses incurred in the performance of his duties.

Section 3.6 No Estoppel or Reliance. No one may rely upon any authorization (from the Board or otherwise) contrary to the terms and conditions of the Governing Documents regardless of circumstances. No claim of estoppel, waiver or similar equitable claims or defense may be raised by anyone related to any alleged reliance.

Section 3.7 Records Retention. The Board shall take appropriate action to develop, implement and update procedures for record retention. The Board should maintain documents in a manner to be easily accessible and copied. The Board may budget specifically for this expense and may seek the advice of consultants in developing retention procedures.

ARTICLE IV - NOMINATION AND ELECTION OF DIRECTORS

Section 4.1 Nomination. Following the Class B Control Period, Nomination for election to the Board may be made by the Board, Owners from the floor at the annual meeting, or pursuant to other written notice and procedures established by the Board

Section 4.2 Election. Following the Class B Control Period, the election of Directors may be by vote or written ballot, as determined at the discretion of the Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized. The Association may utilize available technology for casting and counting votes.

ARTICLE V - MEETINGS OF THE BOARD

Section 5.1 Regular Meetings. Regular meetings of the Board shall be held at least annually, or more frequently as determined by the Board. All notices shall be provided by email or other electronic means. Directors are required to provide an email or electronic address for purposes of notice of Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days.

Owners, and Owner representatives (if designated in writing in advance) may attend Board meetings and may be present for all discussions, deliberations, and decisions except when the Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance. The Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Board shall provide email notice in accordance with the Act to Owners that have requested, in writing, to be notified of Board Meetings and have provided a valid email address.

Section 5.2 Special Meetings. When, in the discretion of the President or two members of the Board, circumstances require that a meeting be held sooner than the required five (5) day notice for a regular meeting, a special meeting may be called by the President or by any two (2) Directors, after not less than twenty-four (24) hours' notice to each Director.

Section 5.3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 5.4 Conduct of Meetings. The Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain minutes of all meetings. The Board may adopt further policies and procedures with regard to conduct at a Board meeting.

- (a) **Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Association or Board meeting, work session or similar event regardless of the location without the written consent of the Association.

Section 5.5 Action Taken Without a Meeting. The Directors may take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE VI - POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers and Duties. The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Governing Documents and Utah law. The Board may delegate its authority to manager(s), subject to any limitations or provisions contained in the Governing Documents.

ARTICLE VII - OFFICERS AND THEIR DUTIES

Section 7.1 Enumeration of Officers. The officers of this Association shall be a president, secretary, and treasurer, or as otherwise designated by the Board.

Section 7.2 Election of Officers. The election/appointment of officers shall take place at the first Board meeting following the annual meeting of the Owners. Officers shall serve in their office for a period of one (1) year. Notwithstanding, nothing in these Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. Appointed Officers may be removed by the Board with or without cause.

Section 7.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Director or to any Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced by a majority of the Board of Directors at any time, with or without cause. In the event of death, resignation or removal of an officer, his successor shall be selected by the Board and shall serve for the unexpired term of his predecessor.

Section 7.5 Duties. The Board may adopt policies and resolutions to define the respective duties of Directors and Officers.

ARTICLE VIII - COMMITTEES

Section 8.1 Committees. The Board may appoint such committees as deemed appropriate in carrying out its purposes. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board. The Board may terminate any committee at any time.

ARTICLE IX - MISCELLANEOUS

Section 9.1 Waiver of Procedural Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of asserting persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:

- (a) If the objecting person attended the meeting and no objection to the particular procedural issue was made at the meeting;
- (b) If the objecting person was not in attendance at the meeting but had proper notice of the meeting; or
- (c) 12 months following the meeting.

Section 9.2 Requirements for Objections. All objections except those made at a meeting shall be in writing. Whenever made, objections must specifically describe the circumstances giving rise to the objection and reference the specific provision of the Governing Documents or law that is alleged to have been violated, with a brief statement of the facts supporting the claimed violation.

Section 9.3 Irregularities that Cannot Be Waived. Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation the Governing Documents or Utah law.

Section 9.4 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 9.5 Amendment. During the Class B Control Period, these Bylaws may be amended at any time by the Declarant. Following the Class B Control Period, these Bylaws may be amended by Owners holding at least sixty-seven percent (67%) of all eligible votes. An amendment to these Bylaws shall be effective immediately upon recordation in the Office of the Davis County Recorder, State of Utah.

The foregoing Bylaws are adopted by the undersigned and made effective upon recordation in the Office of the Davis County Recorder, State of Utah.

TOWNS ON MAIN AT KAYSVILLE HOMEOWNERS ASSOCIATION, INC.
A Utah nonprofit corporation

By:



Scott Lalli
President

Exhibit "C"
Maintenance Chart

The following chart is a quick reference guide for the division of responsibility for maintenance, repair and replacement of Common Area, Limited Common Area and Unit components between the Association and Owners. In the event of conflict, the terms of the Declaration will control over this chart.

UNIT EXTERIOR	HOA	OWNER
Maintenance, repair and replacement of <u>exterior wall surfaces</u> of buildings and Units (limited to routine maintenance and repairs from typical wear and tear - specifically excluding structural damage to walls that serve only one Unit)	X	
Maintenance, repair and replacement of roofs, rain gutters and downspouts, roof shingles, and roof underlayment (felt and plywood) (specifically excluding structural damage)	X	
Maintenance, repair and replacement of bearing walls or bearing columns supporting more than one Unit	X	
Maintenance, repair and replacement of infrastructure, pipes, ducts, conduit, and utilities that serve the Project, general community, or more than one Unit that are not otherwise maintained by the City	X	
Maintenance, repair and replacement of all structural components of the Units not expressly maintained by the Association		X
Maintenance, repair, and replacement of all structural components of an individual Unit, including but not limited to foundations, bearing walls, framing, insulation, rafters, beams, water barriers, plywood or other backing		X
Maintenance, repair and replacement of infrastructure, pipes, ducts, conduit, and utilities serving only an individual Unit		X
Maintenance, repair and replacement of any Owner improvement including: attic vents, fans, ornamental railings, decks, deck steps, window well covers, fencing, awnings, coverings, latticework, and similar items and other approved exterior elements		X
Maintenance, repair and replacement of any exterior appliances serving a single Unit		X
Maintenance, repair and replacement of garages, garage floors,		X

and garage doors		
Maintenance, repair and replacement of steps, porch, patio/deck		X
Maintenance, repair and replacement all doors, door frames, hinges, patio doors, windows, window frames, window wells, hinges, locks, doorbells, skylights, shutters, any exterior glass		X
Maintenance, repair and replacement of exterior lighting		X
Maintenance, repair and replacement of exterior water faucets		X
Maintenance, repair and replacement (including cleaning) of venting and fireplaces.		X

UNIT INTERIOR	HOA	OWNER
Maintenance, repair and replacement of all interior components		X
Maintenance, repair and replacement of all pipes, wires, conduits, or other utility lines serving a single Unit whether located within or without the Unit		X
Maintenance, repair and replacement of cracks or other damage to walls, floors, or ceilings caused by settling – excepting a bearing wall shared by another Unit.		X
All appliances, such as dishwashers, garbage disposals, ranges, refrigerators, microwaves, furnaces, exhaust fans, attic vents, air conditioners, water heaters, and telephone and computer networks.		X
Maintenance, cleaning, and repair of venting and fireplaces.		X
Maintenance, repair, and replacement of the heating, cooling, and electrical systems		X
Maintenance, repair, and replacement of all plumbing fixtures, such as sinks, basins, toilets, and an interior pipes and valves.		X

GROUNDS	HOA	OWNER
Maintenance, repair and replacement of open green space and landscaped areas	X	
Pressurized irrigation systems	X	
Community Perimeter Fences	X	
Private streets and visitor parking spaces	X	
Snow removal: Common Areas	X	
Snow removal: driveways (unless modified by Association Rule)	X	
Snow removal: porches(unless modified by Association Rule)		X
Repair of damage resulting from seepage of water from any underground source.		X
Repair of damage resulting from surface water.		X

OTHER	HOA	OWNER
Any damage to a Unit, Limited Common Area, Common Area caused by an Owner, resident, tenant, guest, invitee, or contractor hired by an Owner.		X
The Association's deductible for any covered loss that is applicable to coverage under an Association's insurance policy		X

**ARTICLES OF INCORPORATION OF
TOWNS ON MAIN AT KAYSVILLE HOMEOWNERS ASSOCIATION, INC.**

I, the undersigned natural person over the age of eighteen (18) years, acting as incorporator of a non-profit corporation, pursuant to the Utah Revised Nonprofit Corporation and Utah Community Association Acts, hereby adopt the following Articles of Incorporation ("Articles") for Towns on Main at Kaysville Homeowners Association, Inc. ("Association").

ARTICLE I - NAME

- 1.1 The name of the nonprofit corporation is Towns on Main at Kaysville Homeowners Association, Inc.

ARTICLE II - DURATION

- 2.1 The duration of the Association shall be perpetual unless earlier dissolved pursuant to law.

ARTICLE III - POWERS AND PURPOSES

- 3.1 Purpose. The Association is organized and shall be operated as a nonprofit corporation for the purpose of enforcing the terms and conditions of the Articles, the Bylaws, and Declaration, as amended, and otherwise administering any Common Areas, Limited Common Areas (if applicable), and/or facilities and generally providing for and promoting the recreation, health, safety, and welfare of Members of the Association.
- 3.2 Powers. The Association shall have all of the powers conferred upon it by the Articles, Bylaws and Declaration, as amended, and all powers allowed by law necessary or convenient for accomplishment of any of its purposes, including all powers conferred by the Utah Revised Nonprofit Corporation and Utah Community Association Acts.
- 3.3 Non-Profit. The Association is not organized for pecuniary profit. No dividend shall be paid to, no part of the Association's funds shall be distributed to, and no part of the net income of the Association shall inure to the benefit of, any of its Members, Directors, or Officers or any other person except to reimburse approved costs.

ARTICLE IV - DEFINITIONS

- 4.1 Definitions. All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions & Restrictions for Towns on Main at Kaysville, a Planned Unit Development, recorded in the Official Records of the Davis County Recorder's Office

("Declaration"), applicable to the Property, and as the same may be amended from time to time as therein provided. The term "Member" shall mean and refer to those persons entitled to membership in the Association, as provided in the Declaration and these Articles.

ARTICLE V – MEMBERSHIP SHARES AND VOTING RIGHTS

- 5.1 Membership/Shares. Every Owner shall be a Member of the Association. Declarant shall be deemed a Member of the Association, as outlined in the Declaration. Membership in the Association shall be mandatory, shall be appurtenant to the Unit in which the Owner has the necessary interest, and shall not be separated from the Unit to which it appertains. The Association shall not issue shares of stock. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Association.
- 5.2 Voting Rights. The Members of the Association shall have voting rights, as set forth in the Bylaws and Declaration.
- 5.3 Membership Information. The Association may for all purposes act and rely on the information concerning Members and Unit ownership, which is provided by Members, or, at its option, the Association may act and rely on current ownership information respecting any Unit that is obtained from the office of the Davis County Recorder. The address of a Member shall be deemed to be the address of the residence situated on such Member's Unit unless the Association is otherwise advised in writing.

ARTICLE VI – INITIAL REGISTERED OFFICE AND REGISTERED AGENT

- 6.1 The address of the initial registered agent of the Association is:
Nathan Roessler
KR Elite Real Estate & Property Management ("KR Elite")
690 E Washington Blvd
Ogden, Utah 84404

By signing below, the undersigned, whose address is set forth hereinabove, accepts appointment as the registered agent.

KR Elite

By:


Nathan Roessler

Its: Registered Agent

ARTICLE VII – APPOINTMENT OF BOARD OF DIRECTORS (“Board”)

- 7.1 Until the Class B Control Period ceases and is automatically converted to a Class A membership pursuant to the terms of the Declaration, Declarant, and its assigns and successors in interest under the Declaration, shall have the right and option to appoint, remove and replace all of the members of the Board. In the event the Declarant fails to exercise this option or in the event the Declarant, by written notice to the Association, voluntarily turns over to the Members the responsibility for electing the Board before the termination of the Class B Control Period, the Board shall be elected by the Members of the Association in accordance with the Declaration and the Bylaws of the Association.

ARTICLE VII – INITIAL BOARD OF DIRECTORS

- 8.1 Initial Board. Declarant shall appoint three individuals to serve on the initial Board of Directors.

ARTICLE IX – INCORPORATOR

- 9.1 The name and address of the incorporator of the Association is as follows:

Scott Lalli

67 S Main St #300
Layton, UT 84041

ARTICLE X - MISCELLANEOUS

- 10.1 Dissolution. Following the Class B Control Period, the Association may be dissolved by the affirmative vote of sixty-seven percent (67%) of the votes of the membership, which Members present in person or by proxy are entitled to cast at a meeting duly called for the purpose. Upon dissolution of the Association, all of its assets (including the Common Areas) shall be transferred to a nonprofit corporation, trust, or other public entity to be used for purposes similar to those provided for in these Articles and the Declaration.
- 10.2 Manager. The Board may carry out through a managing agent any of its functions which are properly authorized by the Articles, Bylaws or Declaration. Any managing agent shall be an independent contractor and not an employee of the Association. The managing agent shall be responsible for managing the Property for the benefit of the Association and the Members and shall, to the extent permitted by law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Retention of a managing agent shall be within the Board’s discretion

and the Board is authorized to enter into a contract for services with the managing agent.

- 10.3 Amendment. Following the Class B Control Period, any amendment to these Articles shall require the consent of at least sixty-seven percent (67%) of all eligible votes. During the Class B Control Period, the Declarant may amend these Articles in Declarant's sole discretion.
- 10.4 Rules, Policies & Resolutions. The Board may adopt, amend and repeal rules, policies and resolutions for regulation and management of the affairs of the Association not inconsistent with the Bylaws, Declaration and Act.
- 10.5 Interpretation. The captions which precede the various portions of these Articles are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any provision contained in these Articles shall not affect the validity or enforceability of the remainder hereof. These Articles have been prepared in conjunction with the Bylaws and Declaration and should be read and construed in light of that fact and liberally so as to affect all of the purposes of these instruments. To the extent the provisions of the Utah Revised Nonprofit Corporation and Utah Community Association Acts are consistent with these Articles, such legislation shall supplement the terms hereof.
- 10.6 Indemnification. No Director, officer, managing agent or member of a committee shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said Director, officer, managing agent or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Director, officer, managing agent or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments, and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Director, officer, managing agent, or member of a committee or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Director, officer, managing agent, or committee member, and the Association shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability. However, that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this section shall not exclude

any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein.

- 10.7 Settlement of Association. The right of any person to be indemnified shall be subject always to the right of the Association, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

DATED this 14th day of April, 2022.



Scott Lalli
Incorporator