

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
WATERS EDGE HOMEOWNERS ASSOCIATION**

September 18, 2015

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
WATERS EDGE HOMEOWNERS ASSOCIATION**

This Declaration of Covenants, Conditions, and Restrictions for Waters Edge Homeowners Association (this “Declaration”) is made as of December, 2015 by Flagship Development, Inc., a Utah corporation (“Declarant”).

RECITALS

A. Phases 1A through 5A (together with any phases added subsequently), are a subdivision located in Vineyard, Utah County, Utah;

B. The Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Project, subject to the following covenants, conditions, restrictions, easements and limitations herein set forth which are hereby declared to be for the benefit of the whole tract and all of the Project described herein and the owners thereof, their successors and assigns;

C. All Owners, guests, invitees, agents, and residents shall abide by the provisions of this Declaration;

D. These covenants, conditions, restrictions, easements, and limitations shall run with the land described in Exhibit “A” and shall be binding on and burden all parties having or acquiring any right, title, or interest to the land or any part thereof and shall create servient tenements on the land. The covenants, conditions, restrictions, easements, and limitations shall also benefit all parties having or acquiring any right, title, or interest to the land and shall create dominant tenements on the land;

E. The Association may be incorporated as a Utah nonprofit corporation and shall be entitled to the rights, obligations, and benefits of the Utah Revised Nonprofit Corporation Act (Utah Code Ann. 16-6a-101, et. seq.), as amended from time to time.

NOW THEREFORE, for the benefit of the Project and the Owners thereof, the following covenants, conditions, restrictions, and easements shall apply to and be binding on the Project:

ARTICLE 1

DEFINITIONS

Capitalized terms used in the Governing Documents (including recitals) have the following meanings:

1.1 Articles. Articles mean the Articles of Incorporation for Waters Edge Home Owners’ Association, as amended from time to time.

1.2 Assessment. Assessments means any amount charged, imposed or levied by the Board on or against a Lot or the Owner of that Lot and shall include fines, interests and costs of

collection incurred by the Association in connection with any action taken to bring an Owner into compliance with this Declaration.

1.3 Association. Association means Waters Edge Home Owners' Association. It is intended that the Association be a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in dissolution of the Association. The Association may renew its corporate status, reinstate its corporate status, or incorporate without Owner approval. As long as the Association obtains the proper vote, any actions taken during any period of un-incorporation shall be binding.

1.4 Board. Board means the Board of Directors. The Board governs the business and affairs of the Association.

1.5 Builder. Builder means any natural person(s) or legal entity that purchases a Lot and constructs or causes to be constructed a Living Unit on that Lot.

1.6 Bylaws. Bylaws mean the bylaws of the Association, as amended or restated from time to time.

1.7 City. City means the City of Vineyard in the State of Utah.

1.8 Common Areas. Common Areas mean Parcels as shown on the Map and any other areas shown on the Map as Common Area(s). Common Areas may also consist of any areas shown on the Map as Open Space, but not dedicated to the City. The Common Areas may consist of landscaping, irrigation equipment, playground equipment, and other improvements. Common Areas may also consist of any areas shown on supplemental maps, exhibits, parcels or legal descriptions. The Association owns all Common Areas.

Common areas do not include shared walls or roofs in townhome units. Any shared walls and roofs shall not be maintained by the Association. Instead, they shall be maintained by unit Owners who share the walls or the roofs. Owners who share the walls or roofs agree to contribute equally to the maintenance of these walls or roofs. If an Owner fails to contribute to the maintenance, the Association may fine these individuals or may assist in the maintenance and recover the cost from the Owner. Any funds expended by the Association due to an Owner failing to contribute to the maintenance of shared walls or roofs, may constitute a lien against the property of the Owner.

1.9 Common Expenses. Common Expenses mean all sums spent to administer, maintain, and/or replace the Common Areas; expenses agreed upon as common expenses by a majority of a quorum of Owners; expenses authorized by the Governing Documents or the Community Association Act as common expenses; any other expenses necessary for the common benefit of the Owners.

1.10 Community Association Act. Community Association Act shall mean the Utah Community Association Act, Utah Code §§ 57-8a-101 et seq., as it may exist at any given time.

1.11 Declarant. Declarant means Flagship Development, Inc., and its successors and assigns.

1.12 Declaration. Declaration means this document, as amended, annexed, supplemented, or restated from time to time.

1.13 Director. Director means a member of the Board.

1.14 Governing Documents. Governing Documents mean the Plat Map, Declaration, Bylaws, Articles, Map, Architectural Standards and Guidelines and Rules and Regulations.

1.15 Improvement. Improvement means any structure, paving, planting or other change in a Lot involving an expenditure of funds which does not constitute maintenance.

1.16 Living Unit. Living Unit means a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence located on a Lot, together with all improvements located on the Lot concerned which are used in conjunction such single-family residence.

1.17 Lot. Lot means a lot, parcel, plot, or other division of land designated for separate ownership and separately numbered on the Map. Lots shall include the Living Unit, and all Improvements to the Lot whether under or over the Common Areas or not. Each Lot shall be assigned a separate “parcel” or “tax identification” number by the appropriate governmental agency.

1.18 Map. Map means the plat maps for Waters Edge Phase 1A through 5A (including all Phases on file or to be filed for record with the Utah County Recorder and any amendments or supplements thereto or any plat maps recorded for additional phases. A preliminary Map is attached hereto as Exhibit “B.”

1.19 Member. Member means a Person who is an Owner of a Lot and has the right to vote on matters presented to the Members of the Association. If an Owner is not a natural person, the Owner may designate in writing an individual to act as its representative. If no representative is designated, then an officer, trustee, director, manager, or member as shown in the entity’s formative documents shall be its representative.

1.20 Mortgage. Mortgage means and refers to any duly recorded mortgage or deed of trust encumbering a Lot.

1.21 Nonprofit Act. Nonprofit Act means Utah Revised Nonprofit Corporation Act, Utah Code §§ 16-6a-101 et seq., as amended or replaced from time to time.

1.22 Owner. Owner means a Person vested with record title to a Lot and whose interest in the Lot is held in fee simple, according to the records of the Utah County Recorder; provided, however, Owner shall not include a Person who holds an interest in a Lot merely as security for the performance of an obligation. If a Lot is subject to an executory purchase contract, the contract purchaser shall be considered the Owner. However, the seller and buyer may otherwise agree but must inform the Board in writing of the alternative arrangement.

1.23 Person. Person means an individual, corporation, partnership, association, trustee, or other legal entity.

1.24 Project. Project means Phases 1A through 5A of the Subdivision, and Subdivision, as shown on the Map. The project includes the land, buildings, improvements and structures, easements, rights, appurtenances, and articles of personal property intended for use in connection therewith. Exhibit “A” contains the legal description for the Project. The Project is not a cooperative.

1.25 Resident. Resident means any Person living or staying at the Project. Residents include without limitation: Owners, tenants, family members of Owners and tenants, and guests staying more than one (1) week.

1.26 Restriction. Restriction means any limitation on the use of a Lot or the freedom of an Owner to act with respect to a Lot as set forth the Governing Documents.

1.27 Rules and Regulations. Rules and Regulations means rules and regulations adopted by the Board, from time to time, which clarify or add detail but do not conflict with the Restrictions.

1.28 Turnover Meeting. Turnover Meeting means the meeting described in Section 10.1.

ARTICLE 2

SUBMISSION, WITHDRAWAL, EXPANSION, SUB-ASSOCIATIONS

2.1 Submission. The Project is submitted to be bound by the Governing Documents, to provisions of the Community Association Act, and to the Nonprofit Act. All Owners shall take title subject to the Governing Documents, Community Association Act, and Nonprofit Act. All Residents and other users of the Project shall be subject to the Governing Documents and Community Association Act.

2.2 Change; Withdrawal.

2.2.1 Prior to the Turnover Meeting, the Declarant may, in its sole and absolute discretion, reconfigure layout of the Lots and/or reduce or increase the number of Lots within the Project by filing for record with the Utah County Recorder’s Office an amended Map reflecting such changes to the Lots.

2.2.2 Prior to the Turnover Meeting, the Declarant may, in its sole and absolute discretion, withdraw any property (excluding, however, any Common Areas conveyed to the Association by the Declarant) from the Project. Such withdrawn property shall no longer be subject to the covenants and restrictions of this Declaration except for any easements, rights, reservations, exemptions, power or privileges reserved to the Declarant pursuant to this Declaration which benefits the withdrawn property and burdens any remaining property which is subject to the Declaration. Such withdrawal shall be made by recording a supplement to this Declaration with the Utah County Recorder’s Office, withdrawing the effect of the covenants and restrictions of the Governing Documents from the withdrawn property. Such withdrawn property may be utilized by the Declarant, or any successor, assign or transferee thereof, for any lawful purpose or use.

2.3 Expansion. Declarant hereby reserves the option, in its sole and absolute discretion, to expand the Project and subject additional land to this Declaration by recording a supplement to this Declaration with the Utah County Recorder's Office.

2.4 Sub-Associations. Nothing in this Declaration shall preclude any Builder from recording an additional declaration against such Builder's property, which additional declaration (i) shall be subject to the terms and conditions of this Declaration, (ii) may create a subordinate owners association (sub-association) to administer and enforce the additional declaration, and (iii) may contain additional restrictions, covenants, easements or provisions with respect to such Builder's property subject to such additional declaration beyond what is set forth in this Declaration. However, in the case of any conflict this Declaration shall control.

ARTICLE 3

RESERVED

ARTICLE 4

PROPERTY AND USE RIGHTS IN COMMON AREA

4.1 Member's Right of Enjoyment

4.1.1 The Project will have Common Areas as designated in the Map for the benefit of all Owners. Every Member of the Association shall have a non-exclusive right and easement for the use, benefit and enjoyment in and to the Common Area and such nonexclusive right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions herein set forth.

4.1.2 Subject to the Governing Documents, each Resident, guest, or invitee has the right to ingress and egress across the Common Areas necessary for access to its Lot. The rights described in this Section are appurtenant to and pass with title to the Lot.

4.1.3 No portion of the Common Area may be used exclusively by any Owner or Owners for personal gardens, storage facilities, or for any other purpose.

4.2 Delegation of Right of Use. Any Member may delegate its rights to the use and enjoyment of the Common Area to Residents, all subject to such reasonable rules and regulations which the Association may adopt.

4.3 Compliance with Covenants and Restrictions and Rules and Regulations. Each Owner and Resident shall comply with the covenants and restrictions imposed by this Declaration on the use and enjoyment of the Common Area. Further, each Owner and Resident shall fully and faithfully comply with the rules, regulations and restrictions applicable to use of the Common Area, as such rules, regulations and restrictions are from time to time adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Area.

ARTICLE 5

MAINTENANCE

5.1 Association Responsibilities. The Declarant shall construct amenities as it deems necessary or as legally required by the City prior to the Turnover Meeting.

5.1.1 The Association shall supervise, manage, operate, examine, insure, inspect, care for, repair, replace, restore and maintain the Common Areas.

5.1.2 The Board, after notice and opportunity for hearing, or in the case of an emergency immediately, may assume the maintenance responsibility over a Lot or Living Unit if, in the opinion of the Board or according to the Governing Documents, the Owner is unwilling or unable to adequately provide such maintenance. Should the Board exercise its right under this provision, the Board shall not be liable for trespass or nuisance and shall have the right to levy an individual assessment pursuant to the Declaration against such Lot or Living Unit to recover its maintenance costs.

5.2 Owner Responsibility. All maintenance, repair, and replacement of the Lots, Living Units, and Improvements shall be the sole responsibility of the Owner thereof, who shall maintain such Lot and Living Unit in good repair and in accordance with the Governing Documents of the Association. Improvements to be maintained by the Owner includes, among other things: sidewalks, driveways, walkways, landscaping, parkstrips, fencing and retaining walls appurtenant to the Owner's respective Lot.

5.3 Builder Responsibility. Initial landscaping of the front yard shall be the responsibility of the Builder of the Living Unit. Front yard shall mean the area of the Lot beginning at the back of the curb on any adjacent street or roadway to a distance to the front most part of the residence from such street or roadway. Initial landscaping shall include at least an irrigation system and sod.

ARTICLE 6

ARCHITECTURAL CONTROL

6.1 Architectural Standards and Guidelines. Architectural Standards will adhere to the Architectural Standards and Guidelines. Until Architectural Standards and Guidelines are created, the provisions of this Declaration shall constitute the Architectural Standards and Guidelines.

6.1.1 Except for initial construction and landscaping performed by Declarant, its successor, or agent, or an Owner's day-to-day landscape maintenance or minor plantings, any changes to the exterior appearance of a Living Unit, any addition or modification to a Lot shall require the prior written approval of the Board.

6.1.2 When repairing, restoring, replacing, remodeling or redecorating the exterior of a Living Unit the Owner shall use materials and colors that are substantially similar to the original construction of, or that are harmonious with, the surrounding Living Units.

6.2 Waiver, Precedent, Estoppel. Approval or disapproval by the Board of any requested architectural change shall not be deemed to constitute precedent, waiver, or estoppel impairing the Board's right to withhold approval or grant approval as to any similar matter thereafter proposed or submitted to the Board.

6.3 Noncompliance. Any construction, alteration, or other work done in violation of this Declaration shall be deemed to be in noncompliance. Upon receipt of a Notice of Noncompliance, Owners shall, at their own cost and expense, remove such nonconforming construction, alteration, or other work and shall restore the Lot and/or Living Unit to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to act as required hereunder, the Board or their designee, without liability for trespass or nuisance, shall have the right to enter the Lot, remove the violation, and restore the Lot and/or Living Unit to substantially the same condition as existed prior to the change. All costs incurred by the Association shall be an Individual Assessment, including any legal fees and costs.

6.4 Liability. The Board shall not be liable to any Owner, occupant, builder or other person for any damage, loss or prejudice suffered or claimed on account of any action or failure to act, provided only that the Board has acted in good faith based on the actual knowledge possessed by it. The Board is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the responsibility of the Owner.

6.5 Delegation of Authority. The rights and responsibilities of the Board under this Article 6 may be delegated to an Architectural Control Committee appointed by Board.

ARTICLE 7

ASSESSMENTS

7.1 Covenant for Assessment. Each Owner of a Lot, by accepting a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to have covenanted and agreed to pay the Association all Assessments levied from time to time as provided in this Declaration, including costs of collection (including attorney's fees) whether or not a lawsuit is commenced. No Owner may exempt themselves from liability for assessments by abandonment of their Lot, failure of the Association to maintain the Common Areas, or non-use of the Common Areas. Each such Assessment, together with late fees, interest and costs of collection, shall be the personal obligation of the Owner. This personal obligation shall not pass to the successor in title of an Owner unless expressly assumed by such successor. A successor in title is entitled to a statement from the Association setting forth the amounts due by the prior owner. The amounts set forth in the statement shall be binding upon the Association.

7.2 Declarant's Covenant for Assessments. During the period of Declarant Control, Declarant shall not be subject to Assessments but Declarant shall contribute such amounts to

the Association as are necessary for the Association to meet its obligations under the budget after collecting Assessments from any Lots owned by third parties.

7.3 Annual Budget. The Board shall prepare an annual budget for the Association. The annual budget shall provide for: the maintenance, repair, and replacement of the Common Areas; maintenance of other areas required to be maintained by the Association; insurance; all other Common Expenses; and the administration, management, operation, and reserves of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.

7.4 Reserve Account. After the Turnover Meeting, the Association shall establish a reserve account to fund long-term capital expenditures, maintenance, and replacement items related to the Common Areas in accordance with the Community Associations Act. The Board shall use reasonable efforts under the circumstances at any given time, subject to the Owners rights under the Community Associations Act, to fund the reserve account. "Reasonable efforts under the circumstances" shall be determined by the Board and does not require fully funding the reserve account. The Board shall not be personally liable for failure to fund the reserve except in the event of gross negligence or intentional misconduct of the Board members is proven in a court of law.

7.5 Regular Assessment. The Association may collect the regular assessment on an annual basis, semi-annual basis, quarterly basis, or monthly basis, in accordance with the annual budget established pursuant to Section 7.3. Written notice of the regular assessment amount and payment schedule shall be sent to Owners at least 30 days in advance of the beginning of the fiscal year for which the regular assessment will be due. Apart from the initial notice of regular assessment, the Association is not obligated to send periodic invoices for regular assessments. If the Board fails to adjust a regular assessment, the amount of the last regular assessment and payment schedule will continue in effect, whether or not notice is sent.

7.6 Special Assessment. The Association may levy a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, maintenance, repair, or replacement of the Common Areas or exteriors of Lots. The Association may levy a special assessment up to 50% of the annual budget without approval from the Owners. If a special assessment exceeds 50% of the annual budget, it must be approved by a majority of a quorum of Owners.

7.7 Supplemental Assessment. If the regular assessments are inadequate to pay the Common Expenses pursuant to an annual budget, the Board shall determine the amount of the shortfall. Once the amount of the shortfall is determined, the Board shall adopt a supplemental budget. The Association may levy a supplemental assessment to fund the supplemental budget. The Association may levy a supplemental assessment up to 50% of the original annual budget without approval from the Owners. If a supplemental assessment exceeds 50% of the original annual budget, it must be approved by a majority of a quorum of Owners.

7.8 Individual Assessment. Any expenses attributable to less than all the Lots may be assessed exclusively against the affected Lots. Individual assessments include, without limitation:

7.8.1 Assessments levied against a Lot to reimburse the Association for costs incurred in correcting a violation of the Governing Documents;

7.8.2 Fines, late fees, interest, collection costs (including attorney's fees);

7.8.3 Services provided to a Lot due to an Owner's failure to maintain, for emergency repairs, or to protect the health, safety, and welfare of adjoining Lots and Common Areas;

7.8.4 Any charge described as an individual assessment in the Declaration.

7.9 Apportionment of Assessments. Regular, special, and supplemental assessments will be apportioned equally among the Lots. Individual assessments shall be apportioned exclusively to the Lots benefitted or affected.

7.10 Nonpayment of Assessment. Assessments not paid within 10 days after the due date established by the Board will be late and may be subject to interest at 18% per annum on any delinquent balance and a \$25.00 late fee. Late fees may only be charged once per missed payment.

7.11 Application of Payments. Payments shall be credited first to collection costs (including attorney's fees), then to interest and late fees, then to the oldest assessments, then the most recent Assessments.

7.12 Acceleration. If an Owner fails to pay their Assessments for 61 days or more, the Board may elect to accelerate the remainder of the Assessments against that Owner due that year.

7.13 Suspension of Voting Rights. If an Owner has a delinquent assessment balance, the Association may suspend their right to vote in any meeting of the Association.

7.14 Lien for Assessment. All assessments, late fees, interest, and collection costs (including attorney's fees) not timely paid shall be a charge and continuing lien upon each Lot against which the Assessment is made. The Association shall file a notice of lien with the Utah County Recorder as evidence of nonpayment.

7.15 Enforcement of Lien. Without waiving its right to personally pursue an Owner for unpaid assessments, the Association may foreclose its lien in the same manner as deeds of trust, mortgages, or any other manner permitted by Utah law.

7.16 Appointment of Trustee. The Owners hereby convey and warrant pursuant to Utah Code Sections 57-1-20 and 57-8a-402 to a 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 the Declaration.

7.17 Subordination of Lien. A lien for assessments shall be subordinate to a first Mortgage now or hereafter placed upon a Lot. The sale of a Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for Assessments which became due prior to the

foreclosure sale. A foreclosure will not relieve the purchaser at foreclosure's obligation to pay the past six (6) months of assessments, late fees, and penalties.

7.18 Reinvestment Fee. As an additional funding source, the Association may establish and collect a Reinvestment Fee upon each transfer of title to a Living Unit (including the Lot). The fee shall be charged to the seller of the Living Unit, shall be payable to this Association at the closing of the transfer, shall constitute an assessment against the Living Unit being transferred, and shall be secured by the Association's lien for assessments under Section 7.14. Each Owner shall notify the Association' at least seven days prior the scheduled transfer closing and provide the name of the buyer, the date of title transfer, and other information the Association may reasonably require.

The Board shall have the discretion to determine the amount of and method of calculating the Reinvestment Fee. Initially, the fee shall be \$500.00.

The Reinvestment Fee may be placed in a segregated account and used to provide funding for such purposes as the Board deems beneficial to the general good and welfare of the Association.

Notwithstanding the above, no Reinvestment Fee shall be levied upon transfer of title to a Unit:

- i. By the Declarant;
- ii. By a Builder designated by the Declarant who held title for purposes of development and resale;
- iii. By a co-Owner to any Person who was a co-Owner immediately prior to such transfer;
- iv. To the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;
- v. To an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the Reinvestment Fee shall become due;
- vi. To an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage;

ARTICLE 8

RESTRICTIONS ON USE

8.1 Use of Lots - Residential Use. Each of the Lots in the Project is limited to single-family, residential use only. The use is further defined by applicable city zoning code. Each Lot and Owner is subject to the uses and restrictions imposed by such restrictions (including any parking restrictions).

8.2 No Obstruction of Common Areas. There shall be no obstructions of the Common Areas by the Owners, Residents, and their tenants, guests or invitees without the prior written consent of the Board. The Board may by Rules and Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Lots or the Common Areas.

Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Board, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Board.

8.3 Cancellation of Insurance, Illegal Activity. Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Board, but for such activity, would pay, without the prior written consent of the Board.

Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. Regardless of the foregoing, the Association shall have no obligation to enforce the statutes, rules, ordinances, regulations, or the requirements imposed by a governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board and the Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees.

8.4 Nuisances. No Resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this section a “nuisance” includes behavior which annoys, disturbs or interferes with other Residents and interferes with their right to the quiet and peaceful enjoyment of their Lot(s). A nuisance includes but is not limited to the following:

8.4.1 The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;

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

8.4.3 The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials so as to constitute an eyesore as reasonably determined by the Board or the Association;

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

8.4.5 The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;

8.4.6 Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invites, particularly if the police or sheriff must be called to restore order;

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

8.4.8 Too much noise in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;

8.4.9 Too much traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;

8.4.10 Allowing a pet to be unleashed while outside of the Living Unit or fenced backyard;

8.4.11 Continuous barking, meowing, or other animal noises;

8.4.12 Allowing your pet to urinate or defecate in the Common Areas or failing to cleanup immediately any feces deposited by a pet in the Common Area or other areas within the Project.

8.5 Rules and Regulations. No Owner or Resident shall violate the Rules and Regulations for the use of the Lots and of the Common Areas as adopted from time to time by the Board. An Owner shall be responsible to advise their guests and invitees about the rules and shall be responsible for their guests and invitees compliance with the rules and regulations.

8.6 Structural Alterations. No improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of the Property or the improvements located thereon shall be made without the prior approval of the Board during the time of Architectural Control under Article 6. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the Board.

8.7 Signs. No signs shall be erected or maintained in the Common Areas without the prior written consent of the Board.

8.8 Pets. No animals, livestock, birds, insects, or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two (2) domesticated dogs or cats shall be allowed on any one Lot as long as said animals do not unreasonably bother or constitute a nuisance to others and provided such animals are kept in compliance with the rules and regulations of the Association.

If a pet owner violates any of pet rules and regulations, the Board shall have the express authority to issue citations or levy Assessments, and collect these by judgment, lien or foreclosure. In extreme cases, the Board may require that the Owner or Resident to remove their pet from the Project.

8.9 Storage and Parking of Vehicles. The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:

8.9.1 The parking rules and regulations adopted by the Board from time to time.

8.9.2 No recreational, commercial or oversized vehicles shall be allowed within the Project unless said vehicle or trailer is kept at all times within the garage of the Lot and the garage door is closed, or screened behind a fence, or for purposes of loading or unloading passengers or supplies (for a period of time up to 24 hours). Recreational vehicles, boats, and trailers (except during construction) may not be parked on the street for more than 48 hours.

8.9.3 No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot or to create an obstacle.

8.9.4 Unregistered or inoperable vehicles shall not be parked on a driveway or street and shall be screened from view.

8.9.5 No resident shall repair or restore any vehicle of any kind in, on a Lot (outside the garage) or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

Vehicles parked in violation of this Declaration may be impounded or towed without further notice, and at the Owner's sole expense.

8.10 Aerials, Antennas, and Satellite Dishes. Aerials, antennas, and satellite dishes larger than one meter in diameter are prohibited. Aerials, antennas, and satellite dishes may not be installed on Common Areas. One antenna or satellite dish smaller than one meter in diameter may be installed within the Lot. The Association may create policies to create a hierarchy of preferred installation locations to protect the aesthetics of the Project.

8.11 Timeshares. Timeshares and time-sharing of Living Units within the Project is prohibited, and under no circumstances shall any condominium be owned or used for time sharing, including but not limited to a "Timeshare Interest" as that term is defined in Utah Code Ann. § 57-19-2(17), as amended.

8.12 Utility Service. All lines, wires, or other devices for the communication or transmission of electric current of power, including telephone, television and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Board.

8.13 Temporary Structures, etc. No structure of a temporary character, or trailer, camper, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, unless first approved in writing by the Board.

8.14 Repair of Buildings. No Improvement upon any Lot shall be permitted to fall into disrepair, and each such Improvement shall be at all times be kept in good condition and repair and adequately painted or otherwise finished.

8.15 Subdivision of Lots. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use in compliance with this Declaration. Nothing in this section shall affect the rights of the Declarant in amending subdivision plats prior to the Turnover Meeting.

8.16 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Property.

ARTICLE 9

MEMBERSHIP AND ASSOCIATION

9.1 Membership. Every Owner is a Member of the Association. Membership in the Association is mandatory, is appurtenant to the Lot, and shall not be separated from the Lot.

9.2 Voting Rights. Voting is governed by the Bylaws.

9.3 Status and Authority of Board. The Board is the governing body of the Association. It is obligated to manage, operate, and maintain the Project and to enforce the Governing Documents. The Board has exclusive authority to act in the Association's name. Any action taken by the Board on behalf of the Association will be deemed to be done in the Association's name. The rights and powers of the Board are governed by the Bylaws.

9.4 Composition and Selection of Board. The Bylaws govern how the Board is established and selected.

9.5 Adoption of Bylaws. The Association has adopted Bylaws which are being recorded simultaneously with this Declaration.

ARTICLE 10

DECLARANT RIGHTS

10.1 Administrative Control of Association. Declarant shall assume full administrative control of the Association through an interim Board appointed by the Declarant, which shall serve until the Turnover Meeting.

The Turnover Meeting shall be held at the Declarant's option and sole discretion but shall not be held sooner than three (3) years from the date the Declarant sells the last Lot of which Declarant is considered the Owner. For purposes of calculating the date when Declarant sell its last Lot, a bulk sale of the Project to another Developer shall be excluded; it being the

intent of this provision that the Turnover Meeting shall be no sooner than three (3) years after Declarant, or its assigns or successors, sells the last Lot to a builder or owner to construct a Living Unit.

Declarant may elect to relinquish control of the Association at an earlier time by written notice to Owners and the Turnover Meeting shall be held within ninety (90) days of such notice.

10.2 Other Rights. In addition to any other rights under the Governing Documents, as long as Declarant owns at least one (1) Lot within the Project, Declarant:

10.2.1 Sales Office and Model. Shall have the right to maintain a sales office and model on one or more of the Lots which Declarant owns. Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week.

10.2.2 “For Sale Signs.” May maintain a reasonable number of “For Sale” signs, the size of which may be determined by Declarant, at reasonable locations on the Project, including without limitation, the Common Area.

10.2.3 Declarant Exemption. Unless specifically and expressly bound by a provision of the Governing Documents, Declarant shall be exempt from the provisions of the Governing Documents.

10.2.4 Signage. May maintain a reasonable number of directional signs and “wayfinding” signage within the community to direct potential sales traffic to sales offices and model homes – including within HOA owned or maintained property.

10.3 Easements Reserved to Declarant.

10.3.1 The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Map as “Public Utility Easement,” or otherwise designated as an easement area over any road or Common Area on the Project, and over those strips of land running along the front, rear, side and other Lot lines of each Lot shown on the Map.

10.3.2 An easement for the installation, construction, maintenance, reconstruction and repair of public and private utilities to serve the Project and the Lots therein, including but not limited to the mains, conduits, lines, meters and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located.

10.3.3 Easement granting the privilege of entering upon the Common Areas for such purposes and making openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and for such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

10.3.4 The reservation to Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over and across the Common Area for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the Project and the provision of utility services, and related services and facilities.

10.3.5 The Declarant further reserves unto itself, and its successors and assigns, the right to grant easements, rights-of-way and licenses to any person, individual, corporate body or municipality, to install and maintain pipelines, underground or above-ground lines, with the appurtenances necessary thereto for public utilities, or quasi-public utilities or to grant such other licenses or permits as the Declarant may deem necessary for the improvement of the Project in, over, through, upon and across any and all of the roads, streets, avenues, alleys, and open space and in, over, through, upon and across each and every Lot in any easement area set forth in this Declaration or as shown on the Map.

10.3.6 The Declarant further reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights of way or easements, including easements in the areas designated as "open space" and storm water management reservation, to public use all as shown on the Map. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as laid down and shown on the Map, without the prior written approval of the Board.

10.3.7 Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

10.3.8 Declarant further reserves unto itself, for itself and any builder and their successors and assigns, the right, notwithstanding any other provision of the Declaration, to use any and all portions of the Project other than those Lots conveyed to Owners, including any Common Area which may have previously been conveyed to the Association, for all purposes necessary or appropriate to the full and final completion of construction of the Community.

The Declarant will take reasonable steps, and will ensure that any builder takes reasonable steps, to avoid unduly interfering with the beneficial use of the Lots by Owners.

ARTICLE 11

COMPLIANCE AND ENFORCEMENT

11.1 Compliance. Each Owner or Resident of a Lot shall comply with the provisions of the Governing Documents and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

11.2 Remedies. Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board acting on behalf of the Association, the right, in addition to any other rights set forth in the Governing Documents, or under law, to do, any or all of the following after giving notice and an opportunity to be heard:

11.2.1 To enter the Lot which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished. Costs and attorney's fees shall be an Individual Assessment;

11.2.2 To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

11.2.3 To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board;

11.2.4 To terminate the right to receive utility services paid for out of Assessments, if any, or, except for the right to an assigned parking space, to terminate the right of access to and use of recreational and service facilities of the Association, until the correction of the violation has occurred; or

11.2.5 The right of the Association to suspend the voting rights in the Association and the rights to use of the Common Area after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the Governing Documents; or

11.2.6 Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto. Costs and attorney's fees shall be an Individual Assessment.

11.3 Action by Owners. Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

11.4 Injunctive Relief. Nothing in this Section shall prevent an Owner, the Association, or other interested party from resort to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

11.5 Hearing. The Board shall, by resolution, promulgate procedures for hearings. When a hearing is requested or required, the hearing shall be conducted in accordance with the Board's resolution on hearings.

ARTICLE 12

INSURANCE

12.1 Types of Insurance Maintained by the Association. The Association shall maintain the following insurance coverages:

12.1.1 Property casualty and fire insurance for the Common Areas to the extent reasonably available or deemed advisable by the Board;

12.1.2 Liability insurance in an amount deemed advisable by the Board;

12.1.3 Full coverage directors and officers liability insurance for such amount as the Board may determine in the exercise of its reasonable discretion; and

12.1.4 Fidelity bond or dishonest acts insurance for at least the value of the reserves and operating capital of the Association.

The Board may adopt insurance rules and policies to maintain the insurance required under this Section and keep the premiums reasonable.

12.2 Insurance Company. The Association shall use an insurance company knowledgeable with community association insurance, which is licensed in Utah.

12.3 Premium as Common Expense. The premiums for the Association's insurance policies shall be a Common Expense.

12.4 Insurance by Owner. Owners shall insure their Lots and all improvements thereon for the full replacement value. If requested, an Owner shall provide the Association with a certificate of insurance.

12.5 Payment of Deductible. The deductible on a claim made against an Association policy shall be allocated to the party which caused the loss. The Association shall have the right to determine which party caused the loss. If the loss is a "no-fault" loss, the Association shall pay the deductible.

12.6 Right to Adjust Claims. The Association has the right and authority to adjust claims.

12.7 Insurance Proceeds. If an Owner suffers a loss to their Lot or the improvements thereon, they shall use any insurance proceeds to restore the Lot and improvements to their original or better condition. If an insurable loss to the Common Areas occurs, the Association shall use the insurance proceeds to restore the Common Areas to their original or better condition.

12.8 Damage and Destruction of Common Area.

12.8.1 Immediately after any damage or destruction by fire or other casualty to all or any part of the insurable improvements on the Common Area, the Board, or its agent, shall proceed with the filing and adjustment of all claims arising under the fire and extended coverage insurance maintained by the Association and obtain reliable estimates of the cost of repair or reconstruction of the damaged or destroyed improvements. Repair or reconstruction means repairing or restoring the improvements to substantially the same condition in which they existed prior to the fire or other casualty.

12.8.2 Any damage or destruction to insurable improvements on the Common Area shall be repaired or reconstructed unless at least seventy-five percent (75%) of the Members present at a meeting of the membership held within ninety (90) days after the casualty shall decide not to repair or reconstruct.

12.8.3 If, in accordance with this Article, the improvements are not to be repaired or reconstructed and no alternative improvements are authorized by the Members, then and in that event the damaged Common Area shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition. In such event, any excess insurance proceeds shall be paid over to the Association for the benefit of the Project, which proceeds may be used and/or distributed as determined by the Board, in its discretion, or as otherwise provided in the Governing Documents.

12.8.4 If any Improvements on the Common Area are damaged or destroyed, and the proceeds of insurance received by the Association are not sufficient to pay in full the cost of the repair and reconstruction of the improvements, the Board shall, without the necessity of a vote of the members, levy a Special Assessment against all Owners in order to cover the deficiency.

12.9 Obligation of Lot Owner to Repair and Restore.

12.9.1 In the event of any damage or destruction of the improvements on a Lot, the insurance proceeds, unless retained by a Mortgagee of a Lot, shall be applied first to the repair, restoration, or replacement of the insured Improvements. Any such repair, restoration or replacement shall be done in accordance with the plans and specifications for such Improvements originally approved by the Board; unless the Owner desires to construct Improvements differing from the original, in which event the Owner shall submit plans and specifications for the improvements to the Board and obtain its approval prior to commencing the repair, restoration or replacement.

12.9.2 If any Owner of an improved Lot fails to maintain the insurance required by this Article, the Association may, but shall not be obligated to, obtain such insurance and pay any premiums required in connection with obtaining such insurance. Such Owner shall be personally liable to the Association for any costs incurred by the Association in obtaining such insurance, to the same extent as such Owner is liable for assessments levied against its Lot, and, upon the failure of the Owner to pay such costs within 10 days after such Owner's receipt of a written demand therefor from the Association, the Association may establish a lien therefor

upon the Owner's Lot in accordance with and subject to the provisions of this Declaration applicable to an assessment lien.

ARTICLE 13

AMENDMENT, DURATION AND TERMINATION

13.1 Amendments.

13.1.1 Approval Required. Except as otherwise provided in this Declaration, this Declaration may be amended by approval of Owners holding sixty-seven percent (67%) of the voting rights of the Association. The Board without Owner approval may amend the Declaration to correct spelling and grammatical errors.

13.1.2 Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president and secretary of the Association as being adopted in accordance with this Declaration is acknowledged and is recorded in the Utah County Recorder's Office, Utah.

13.1.3 Declarant's Right to Amend. Notwithstanding anything in this Declaration, so long as the Class B membership exists, the written consent of the Declarant is required to amend this Declaration or the Map. As long as Declarant owns any Lot, the Declarant shall have the unilateral right to amend the Declaration.

13.2 Duration; Termination. This Declaration shall continue in perpetuity unless and until the Declarant files of a notice of termination in the office of the Utah County Recorder at any time prior to the Turnover Meeting, or (ii) the Members vote by not less than sixty-seven percent (67%) of all Members of the Association to terminate the Declaration and dissolve the Association. In the event this Declaration is terminated pursuant to this Section 13.2, this Declaration shall be terminated by recording a notice with the Utah County Recorder and the Association shall be dissolved in accordance with Utah law.

ARTICLE 14

MISCELLANEOUS PROVISIONS

14.1 Professional Management. The Association may be managed by a professional management company. The Board may select the professional management company using criteria set by the Board and complying with Utah law.

14.2 Invalidity; Number; Captions. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

14.3 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

14.4 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and rules and regulations adopted by the Association restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

14.5 Covenants Run with the Land. The Declaration contains covenants which run with the land and create equitable servitudes. The Declaration shall be binding upon and inure to the benefit of the Association, all parties who hereafter acquire any interest in or occupy a Lot or any part of the Project, their heirs, successors, assigns, grantees, devisees, personal representatives, guests, and invitees. Each Owner or Resident shall comply with the Governing Documents. All interests in the Lots shall be subject to the Governing Documents. Failure to comply shall be grounds for an action for damages or injunctive relief by the Association or an Owner. By acquiring any interest in a Lot, each Owner or Resident agrees to be bound by the Governing Documents.

14.6 Waiver, Precedent and Estoppel. No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association or Owner as to any similar matter.

14.7 Mediation and Right to Cure. Prior to any claim for damages being made for construction defect or construction related issues (including breach of contract), an Owner or the Association must provide the Declarant or Builder with reasonable notice of any alleged deficiencies and the Declarant or Builder shall have reasonable opportunity to cure any deficiencies. If the Association or Owner, after having provided reasonable notice and reasonable opportunity to cure, feels the matter has not been resolved and still wishes to pursue claims for damages against the Declarant or Builder, the parties shall submit the dispute to mediation in Utah prior to filing any action.

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

14.9 Taxes on Lots. Each Owner will pay all taxes which may be assessed against him or his Lot.

14.10 Service of Process. The registered agent of the Association will be the Person named in the corporate records on file with the Utah State Department of Commerce.

If the corporate status of the Association expires, the president shall be the successor agent. The name and address of the president shall be kept with the Association's records at its principal place of business.

14.11 Gender, etc. Whenever the context so requires, the singular shall include the plural and vice versa. The use of any gender shall include all genders

14.12 Conflicts. If the Declaration conflicts with the Community Association Act, the Community Association Act shall control. If the Declaration conflicts with the Map, the Map shall control. If the Declaration conflicts with the Bylaws, Articles, or rules, the Declaration shall control.

14.12 Litigation. Because litigation can be slow, expensive, uncertain and negatively impact the property values within a community, the Association shall only enter into litigation by approval of Owners holding eighty percent (80%) of the voting rights of the Association except for litigation to collect assessments, enforce governing documents (including fines or curative measures) or to defend itself.

[Remainder of Page Intentionally Omitted]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the date first set forth above.

DECLARANT:

FLAGSHIP DEVELOPMENT, INC.

By: _____
Name: _____
Its: _____

STATE OF UTAH)
)
) :ss.
County of _____)

On this ____ day of _____, 2015, personally appeared before me _____ who being by me duly sworn, did say that they are the authorized agent of the Declarant authorized to execute this Declaration and did certify that this Declaration was approved by Declarant’s members.

NOTARY PUBLIC

Exhibit A-Legal Description

Waters Edge Phase 1 description:

Exhibit B – Map