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DEP RT REC'D FOR SHAELA PARK

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF SHAELA PARK (A Planned Unit Development)  
&  
PLAT NOTE AMENDMENT  
Lots 1 – 32, Parcel A, and Common Area  
Parcel ID Nos. 03-168-0001 through 03-168-0033**

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This Declaration is made on the date executed below by Shaela Park, PUD of Centerville, Homeowners Association, Inc., a Utah nonprofit corporation ("Association").

### RECITALS

A. Shaela Park, P.U.D., is a planned unit development located in Centerville, Davis County, Utah;

B. Shaela Park, P.U.D., was created and is governed by a declaration of covenants, conditions, and restrictions recorded October 21, 1998 as Entry No. 1450185, in the Davis County Recorder's Office ("Original Declaration");

C. Shaela Park P.U.D., was also created and is governed by a plat map recorded October 21, 1998, as Entry No. 1450184, in the Davis County Recorder's Office ("Map"). The Map contains 12 notes;

D. This Declaration replaces the Original Declaration and all its amendments and supplements in their entirety;

E. This Declaration shall be binding against all phases within the Project as described in Exhibit "A;"

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

G. 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;

H. Declarant of the Original Declaration has sold all units and under the Original Declaration, declarant rights have expired;

I. Under the Original Declaration Article XVI, the Board certifies that members

representing more than 67% of the percentage interests in the Common Areas have affirmatively approved this Declaration and the Note amendment to the Plat;

J. Under the Original Declaration Articles XVI and XV, Section 15.4(f) at least 51% of the first Mortgagees have given their approval as allowed under Utah Code § 57-8a-210.

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:

## **1 PLAT NOTE AMENDMENT**

Note 10 on the Map is hereby repealed and amended in its entirety to read as follows:

All common and limited common areas shall be owned and managed in accordance with the Declaration by the Shaela Park, PUD of Centerville, Homeowners Association, Inc., a Utah nonprofit corporation.

## **2 DEFINITIONS**

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

### **2.1 Articles**

Articles mean the Articles of Incorporation for Shaela Park, PUD of Centerville, Homeowners Association, Inc., as amended from time to time.

### **2.2 Association**

Association means Shaela Park, PUD of Centerville, Homeowners Association, Inc. 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. Any actions taken during any period of un-incorporation shall be binding.

### **2.3 Board**

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

### **2.4 Bylaws**

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

### **2.5 Common Areas**

Common Areas mean all areas labeled as common area on the Map and any improvements located thereon, including irrigation equipment, landscaping, playground equipment. The Association owns all Common Areas.

### **2.6 Common Expenses**

Common Expenses mean all sums spent to administer, maintain, 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; common utilities; communications services; and any other expenses necessary for the common benefit of the Owners.

**2.7 Community Association Act**

Community Association Act shall mean Utah Code §§ 57-8a-1 *et seq.*, as amended or replaced from time to time.

**2.8 Declaration**

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

**2.9 Director**

Director means a member of the Board.

**2.10 Governing Documents**

Governing Documents mean the Declaration, Bylaws, Articles of Incorporation, Map, and rules and regulations.

**2.11 Limited Common Area**

Limited Common Area means Common Area designated for exclusive use by the Owner of a particular Lot. Limited Common Area shown on the Map in the inset titled "Typical Twin Home Private Ownership." Limited Common Areas include any other Common Area feature designed to be used by one or more Lots but not all Lots.

**2.12 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, together with all improvements located on the Lot concerned which are used in conjunction such residence.

**2.13 Lot**

Lot means a separately numbered parcel of property as shown on the Map. Lots shall include the areas labeled as driveway, building pad, and private landscaping on the Map inset titled "Typical Twin Home Private Ownership." Lots shall include the Living Unit, and all utility lines, and other installations exclusively serving the Lot whether under or over the Common Areas or not.

**2.14 Map**

Map means the plat map for Shaela Park, on file with the Davis County Recorder as Entry No. 4150184 and any amendments or supplements thereto or any plat maps recorded for additional phases.

**2.15 Member**

Member means an Owner. If an Owner is not a natural person (*e.g.*, a corporation, limited liability company), the Owner may designate, in writing, a natural person to act on its behalf. If no representative is designated, then an officer, trustee, director, manager, or member as shown in the entities formative documents shall be its representative.

**2.16 Nonprofit Act**

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

**2.17 Owner**

Owner means the owner of the fee in a Lot as shown in the real property records of Davis

County. 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.

#### **2.18 Person**

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

#### **2.19 Project**

Project means Shaela Park, P.U.D., as shown on the Map and any expansions thereof. 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.

#### **2.20 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 a week.

### **3 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.

## **4 PROPERTY RIGHTS IN LOTS**

#### **4.1 Use and Occupancy**

Except as otherwise expressly provided in the Governing Documents, the Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot and Living Unit. Each Lot shall be bound by, and the Owner and Residents shall comply with the Governing Documents for the mutual benefit of the Owners and Residents.

#### **4.2 Easements Reserved**

In addition to the easements shown on the Map or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

4.2.1 Right of Entry. The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance, which is otherwise assigned to an Owner, and determining whether or not the Lot is in compliance with the Governing Documents. Except situations deemed by the Board to be emergencies or to enable the Board to discharge its maintenance responsibilities, notice of entry shall be made in advance. Entry shall be made at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. The Board in case of emergency to protect the safety or property of neighboring Living Units may enter a Living Unit for the purpose of abating the emergency. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

4.2.2 Easement for Encroachment. If any part of the Common Areas encroaches on a Lot, an easement for the encroachment and for maintenance shall exist. If any part of a Lot encroaches upon the Common Areas, an easement for the encroachment and for maintenance shall exist. Such encroachments will not be considered to be encumbrances to the Common Areas or Lots. Encroachment causes include, without limitation, errors in the original construction; errors in the Map; settling, rising, or shifting of the earth; or changes in position caused by good faith mistakes in the repair or reconstruction of the Project.

4.2.3 Utility Easements. The Association or any public utility provider shall have an easement over all Lots for the installation, maintenance and development of utilities and drainage facilities. The easement area of each Lot and all Improvements therein shall be maintained continuously by the Owner of the Lot of the Association in accordance with the terms of the Governing Documents, except for those improvements for which a public authority or utility provider is responsible.

#### **4.3 Easements Shown on the Map**

Lots shall be subject to the easements shown on the Map.

### **5 PROPERTY AND USE RIGHTS IN COMMON AREA**

#### **5.1 Member's Right of Enjoyment**

5.1.1 The Project will have Common Areas as designated on the Map for the benefit of all owners. Every Owner shall have a non-exclusive right and easement for the use, benefit and enjoyment in and to the Common Area, but not Limited 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.

5.1.2 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 his Lot.

5.1.3 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.

5.1.4 The rights described in this Section are appurtenant to and pass with title to the Lot.

#### **5.2 Delegation of Right of Use**

Any member of the Association 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.

#### **5.3 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.



## **6 MAINTENANCE**

### **6.1 Association Responsibility**

The Association shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace, restore and maintain the Common Areas. The Association shall also maintain, repair, and replace the sod, flower beds, trees, and irrigation systems, whether located in Common Area, Limited Common Area, or Lots. The Association shall also perform snow removal on all sidewalks, driveways, and walkways. The Association shall not be responsible for snow removal from porches, patios, or decks.

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, the Owner is unwilling or unable to adequately provide such maintenance. Should the Board exercise its right under this provision, it shall not be liable for trespass or nuisance and shall have the right to levy an Individual Assessment to recover its maintenance costs.

### **6.2 Owner Responsibility**

Unless otherwise assigned to the Association in 5.1, all maintenance, repair, and replacement of the Lots, Living Units, Limited Common Areas, and improvements shall be the sole responsibility of the Owner thereof, who shall maintain such Lot, Living Unit, and Limited Common Area in good repair and in accordance with the Governing Documents. Maintenance, repair, and replacement responsibility shall include, by way of illustration only: all interior and structural components; exterior finished surfaces of the walls, soffit, fascia, and roofs of the Living Units; exterior doors, exterior door frames, exterior door casings, exterior door jambs, exterior door hardware, thresholds, and any weatherproofing required for the exterior doors; garage doors, garage door casing and molding, garage door hardware and openers; windows, window frames, window casing, window hardware, any weatherproofing required for the windows; driveways, walkways, patios, or any other concrete adjoining the Lot; exterior light fixtures, exterior electrical outlets, light bulbs; HVAC installations; plumbing installations; electrical installations; and any other component of the Limited Common Area, Living Unit or Lot not expressly assumed by the Association.

### **6.3 Party Walls**

Each wall used as the dividing line between Living Units is a party wall. Nothing in this section shall alter or limit the general rules of law regarding party walls and liability for damage due to negligence, or willful acts or omissions. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use the party wall in proportion to their use. If a party wall is destroyed or damaged by fire or other casualty, and is not a covered loss under insurance, either Owner may restore the wall and the other Owner shall contribute to the cost of restoration in proportion to the damage sustained by the Owner compared to all damage to the party wall. The right of an Owner to contribution from any other Owner for party wall costs shall be appurtenant to and run with the land and shall pass to an Owner's successor in title.

Fences separating Lots shall be the joint maintenance, repair, and replacement responsibility of the Owners sharing the fence.

## **7 ASSESSMENTS**

### **7.1 Covenant for Assessment**

By accepting a deed or other conveyance, each Owner covenants and agrees to pay the

Association all regular assessments, special assessments, supplemental assessments, individual assessments, late penalties, and collection costs (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. Except for foreclosures, the personal obligation for unpaid assessments, late fees, interest, and collection costs, including attorney's fees, shall pass to the successor in title. 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. If an Owner loses their Lot to foreclosure or voluntarily conveys it, they shall remain personally liable for unpaid assessments, late fees, interest, and collection costs (including attorney's fees).

## **7.2 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 until a new budget is adopted.

## **7.3 Reserve Account**

The Association shall establish a reserve account to fund long-term maintenance and replacement items. The Board shall use reasonable efforts, subject to the Owners rights under the Community Associations Act, to fund the reserve account. The Board shall not be personally liable for failure to fund the reserve unless gross negligence or intentional misconduct is proven in a court of law.

## **7.4 Regular Assessment**

The Association may collect the regular assessment on an annual basis, semi-annual basis, quarterly basis, or monthly basis. The maximum annual regular assessment for 2013 is \$1,320.00 per Lot. The maximum annual regular assessment shall increase 10% per year. However, the actual amount of the regular assessment shall be determined by the Board up to the maximum annual regular assessment in effect at the time. Increases above the maximum annual regular assessment may only be permitted upon approval of a majority of a quorum of Owners. The decision by the Board to charge less than the maximum annual regular assessment shall have no effect on the maximum annual regular assessment for any given year or the ability of a Board to charge the maximum in the future.

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.

## **7.5 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. 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.

## **7.6 Supplemental Assessment**

If the regular assessments are inadequate to pay the Common Expenses, 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.

## **7.7 Individual Assessment**

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

7.7.1 Assessments levied against a Lot to reimburse the Association for costs incurred in correcting a violation of the Governing Documents or making a repair to a Living Unit, Limited Common Area, or Lot;

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

7.7.3 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;

7.7.4 Reinvestment or transfer fees due at the transfer of a Lot; and

7.7.5 Any charge described as an individual assessment by this Declaration.

## **7.8 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.

## **7.9 Nonpayment of Assessment**

Assessments not paid within 10 days after the due date established by the Board will be late and 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.

## **7.10 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.

## **7.11 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 due that year.

## **7.12 Suspension of Voting Rights**

If an Owner has a delinquent assessment balance, the Association may suspend their right to vote.

## **7.13 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 county recorder as evidence of nonpayment.

#### **7.14 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.

#### **7.15 Termination of Utilities/Access to Recreational Facilities**

If an Owner fails to pay their assessments, the Association may terminate utility services paid in common and access to recreational facilities. The Board shall establish procedures for terminating utilities and access to recreational facilities, which shall comply with the Community Association Act.

#### **7.16 Collection of Rent from Tenant**

If an Owner rents their Lot and fails to pay their assessments, the Association may demand the tenants to pay the Association any rent owed to the Owner. Payment of rent to the Association shall not be a violation of the lease by the tenant. The Board shall establish procedures for collecting rents from tenants, which shall comply with the Community Association Act.

#### **7.17 Appointment of Trustee**

The Owners hereby convey and warrant pursuant to U.C.A. 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.

#### **7.18 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's obligation to pay six months of assessments, late fees, and penalties.

### **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. A single-family is defined by Centerville Zoning Ordinance as amended or replaced from time to time. Each Lot and Owner is subject to the uses and restrictions imposed by Centerville Zoning Ordinance or any other municipal ordinance governing use of the Lot (including any parking restrictions).

#### **8.2 Leases**

"Leasing" means granting the right to use or occupy a Lot to a non-owner while no Owner occupies the Lot as their primary residence. Lots owned by business entities shall be considered leased regardless of who occupies the Lot. Lots owned by trusts shall not be considered leased as long as the occupant is either the trustor or beneficiary of the trust. All leases shall be in writing and shall have an initial term of a minimum of 30 days. Dormitory, hostel, hotel, or nightly rentals are strictly prohibited. Lots may only be leased as a single premises to tenants living and using the premises as a single household, with rents paid as if from a single entity. Individual room rentals or rentals to multiple tenants not using the premises as a single household are strictly prohibited. Owners shall provide their tenants with a copy of the Declaration, Bylaws, and rules and regulations. All leases shall be subject to the Declaration, Bylaws, and rules and regulations. Leases shall require that all residents and guests comply with the Declaration, Bylaws, and rules and regulations. Leases shall also provide that failure to abide by the Declaration, Bylaws, and rules and regulations is a material breach of the Lease and

shall be grounds for eviction. Any Owner who leases their Lot shall be responsible for assuring the residents' compliance with the Declaration, Bylaws, and rules and regulations. Upon written request (including a request via electronic means), the Owner shall provide the Association with a copy of the lease agreement and the names of all residents in the Lot.

### **8.3 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.

### **8.4 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. 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.

### **8.5 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 property. A nuisance includes but is not limited to the following:

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

8.5.2 The storage of any item, property or thing that will cause any Lot, Limited Common Areas, or the Common Areas to appear to be in an unclean or untidy condition or that will be noxious to the senses.

8.5.3 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;

8.5.4 The storage of any substance, thing or material upon any Lot, Limited Common Area, 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;

8.5.5 The creation or maintenance of any noxious or offensive condition or activity in or about any Lot, Limited Common Area, or the Common Areas;

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

8.5.7 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 invitees;

8.5.8 Excessive noise in, on or about any Lot, Limited Common Area, or the Common Areas, especially after 10:00 p.m. and before 7:00 a.m.;

8.5.9 Excessive traffic in, on or about any Lot, Limited Common Area, or the Common Areas, especially after 10:00 p.m. and before 7:00 a.m.;

8.5.10 Allowing a pet to be unleashed while outside of the Living Unit;

8.5.11 Continuous barking, meowing, or other animal noises;

8.5.12 Allowing a pet to urinate or defecate in the Limited Common Area, Common Areas, or failing to clean up immediately any feces deposited by a pet in the Limited Common Area or Common Area.

## **8.6 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.

## **8.7 Structural Alterations**

Except for initial construction and landscaping, no improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of the Lot, Living Unit, private back yard area, or the improvements located thereon shall be made without the prior approval of the Board. No structural alterations to a Living Unit may be performed without the prior approval of the Board and the appropriate governmental entity. 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. To obtain Board approval, an Owner shall submit a written application showing the size,

shape, colors, materials, and other specifications and plans for the proposed improvement. Any improvements, alterations, changes, or repairs shall comply with the Governing Documents.

### **8.8 Window Coverings**

The Board, by rule, may require that certain colors and types of window covering be used.

Under no circumstances shall any cardboard, newspaper, or tinfoil be used as window coverings in the Project. Additionally, no stickers or non-holiday decorations will be permitted in windows.

### **8.9 Signs**

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

### **8.10 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 domesticated dogs or cats shall be allowed 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 the 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 premises.

### **8.11 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:

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

8.11.2 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 and the garage door is closed, or for purposes of loading or unloading passengers or supplies (for a period of time up to 24 hours).

8.11.3 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 parking space or to create an obstacle.

8.11.4 Residents may only park their motor vehicles within their garages and driveways.

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

8.11.6 No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

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

### **8.12 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 one meter in diameter or smaller 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. The hierarchy of preferred installation locations may not interfere with reception.

### **8.13 Timeshares**

Timeshares and time-sharing of Living Units within the Project is prohibited, and under no circumstances shall any Living Unit 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.

### **8.14 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.

### **8.15 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.

### **8.16 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.

### **8.17 Clothes Drying Facilities**

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

### **8.18 Front Porches**

Front porches are required to be maintained in a clean and tidy fashion. Any outdoor furniture kept on the front porch shall be well maintained and in good condition. The Association may require worn furniture or furniture that detracts from the aesthetic of the Project to be removed from the front porch.

Front porches shall not be used for storage. Examples of items prohibited from being kept on front porches include, without limitation, bicycles, toys, barbecues, trash receptacles, ash trays, and anything else which appears unkempt, dirty, or detracts from the appearance of the Project.

### **8.19 Off Road Vehicles**

No off road motor vehicles, including but not limited snow mobiles, three wheelers or four wheelers may be driven on the roads, streets, footpaths, walkways, Limited Common Areas or



Common Areas within the Project.

### **8.20 Firearms and Projectile Weapons**

The use of firearms, airsoft guns, BB guns, pellet guns, archery equipment, or any other projectile weapon, however powered, is prohibited.

## **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.

## **10 COMPLIANCE AND ENFORCEMENT**

### **10.1 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.

### **10.2 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:

10.2.1 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;

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

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

10.2.4 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

10.2.5 The right of the Association to suspend the voting rights 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

10.2.6 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.

### **10.3 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.

### **10.4 Injunctive Relief**

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

### **10.5 Hearing**

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

## **11 INSURANCE**

### **11.1 Types of Insurance Maintained by the Association**

11.1.1 Property and liability insurance for the Townhomes and Common Areas as required by Community Association Act Sections 401 through 407, as amended or replaced from time to time;

11.1.2 Directors and officers for at least \$1,000,000.00; and

11.1.3 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 insurability of the Project,

keep the premiums reasonable, and enforce responsibilities of the Owners.

#### **11.2 Insurance Company**

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

#### **11.3 Premium as Common Expense**

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

#### **11.4 Insurance by Owner**

Owners shall obtain insurance for personal property, contents, and personal liability. Owners shall also obtain loss assessment and dwelling coverage in the amount of the Association's deductible.

#### **11.5 Payment of Deductible**

The deductible on a claim made against an Association policy shall be allocated amongst the parties to the loss as described in Community Association Act Section 405(7)-(8), as amended or replaced from time to time.

#### **11.6 Right to Adjust Claims**

The Association has the right and authority to adjust claims.

#### **11.7 Damage to the Project/Insurance Proceeds**

If the Project is damaged or destroyed, the Association shall follow Community Association Act Section 407, as amended or replaced from time to time, to determine whether to rebuild and how to use insurance proceeds.

### **12 AMENDMENT AND DURATION**

#### **12.1 Amendments**

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. However, the Board may amend this Declaration, without the consent of the Owners, to correct typographical and grammatical errors.

12.1.1 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 Davis County Recorder's Office, Utah.

### **13 MISCELLANEOUS PROVISIONS**

#### **13.1 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.

#### **13.2 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.

### **13.3 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.

### **13.4 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.

### **13.5 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.

### **13.6 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.

### **13.7 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.

### 13.8 Taxes on Lots

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

### 13.9 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.

### 13.10 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.

IN WITNESS WHEREOF, the Association, by and through its Board, has executed this Amendment to the Declaration and Bylaws certifying that the appropriate number of approvals were received as discussed in the Recitals as of the 21<sup>st</sup> day of November, 2013.

DATED: 11-21-13.

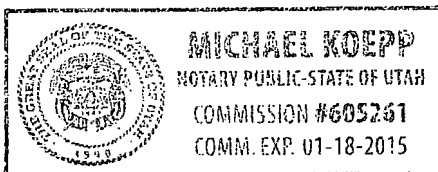
**SHAELA PARK, PUD OF CENTERVILLE, HOMEOWNERS ASSOCIATION, INC.**

HNEA 11/21/13  
\_\_\_\_\_  
President

Centerville, 11/21/13  
\_\_\_\_\_  
Secretary

STATE OF UTAH                     )  
  :SS  
County of Salt Lake            )

On the 21<sup>st</sup> day of November, 2013, personally appeared Heather Strasser  
and Annette Valler who, being first duly sworn, did that say that they  
are the President and Secretary of the Association; certified that the appropriate approvals were  
received; that said instrument was signed and sealed on behalf of said Association by authority  
of its Board; and each of them acknowledged said instrument to be their voluntary act and deed.



Michael Koepf  
\_\_\_\_\_  
Notary Public for Utah

**Exhibit A**

**Legal Description**

Lots 1 – 32, Parcel A, and Common Area Shaela Park PUD as shown on the Plat Map thereof on record in the Davis County Recorder's Office.

THIS PAGE WAS BLANK  
OR NOT FILLED IN AT  
TIME OF RECORDING  
RICHARD T. MAUGHAN  
Davis County Recorder