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RICHARD T. MAUGHAN  
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**DECLARATION**

OF 

**COVENANTS, CONDITIONS AND  
RESTRICTIONS**

**FOR THE**

**HARVEST PARK  
SUBDIVISION**

(a Utah Expandable Residential Community)

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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE HARVEST PARK SUBDIVISION

This Declaration of Covenants, Conditions and Restrictions for the Harvest Park Subdivision ("Declaration") is made and executed by Harvest Park Community, LLC, a Utah limited liability company ("Declarant").

## RECITALS:

A. **Name of Project and Description of Land.** The subdivision that is the subject of this Declaration shall be known as the Harvest Park Subdivision ("Project"), and is situated in and upon that certain real property ("Subject Land") located in Davis County, State of Utah, as specifically described in Exhibit "A" attached hereto and incorporated herein by this reference. Declarant has prepared and has recorded in the office of the County Recorder for Davis County, State of Utah, a plat map for Harvest Park Subdivision ("Plat"). There will be twenty-nine (29) Lots in the first phase of the Project, and six (6) Lots in the second phase of the Project, although the Project, when completed, may contain up to a total of seventy (70) Lots.

B. **Intent and Purpose.** Declarant, by recording this Declaration, does so for the purpose of: (1) creating a development for the use and enjoyment of the Owners of the Lots; and (2) to impose upon the Subject Land mutually beneficial restrictions under a general plan of improvement for the benefit of all Lots within the Project and the Owners thereof.

## DEFINITIONS

- 1.1 **Defined Terms.** Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.
- 1.2 **Additional Land** shall mean any of the real property which is adjacent to the Project which real property may from time to time be made subject to this Declaration pursuant to the provisions of Article 9 hereof. At no time shall any of the Additional Land be deemed to be part of the Project until such portion of the Additional Land has been duly annexed hereto pursuant to Article 9 hereof and until a supplemental declaration and amended plat or additional plat have been duly recorded.
- 1.3 **Declarant** shall mean Harvest Park Community, LLC, a Utah limited liability company, its assigns or its successor in interest that purchases substantially all the Lots from Harvest Park Community, LLC.

- 14 **Dwelling** shall mean and refer to each physically constructed residential dwelling or building containing a single-family residence located as an improvement on a Lot.
- 15 **Lot** shall mean each individual parcel of real property shown on the Plat as a Lot, together with all improvements located thereon and all appurtenances thereunto appertaining.
- 16 **Owner** shall mean any person or entity or combination thereof, including the Declarant, owning fee title to a Lot within the Project as shown on the records of Davis County, State of Utah.
- 17 **Period of Administrative Control** shall end seven (7) years from the date of recordation of this Declaration or the date on which seventy-five percent (75%) of the lots in Harvest Park Subdivision have been conveyed to Owners other than Declarant or Declarant's successor in interest, whichever is sooner.
- 18 **Plat or Map** shall mean the Plat or Plats for Harvest Park Subdivision, as recorded in the office of the County Recorder for Davis County, State of Utah.
- 19 **Project** shall mean all Lots collectively within Harvest Park Subdivision.
- 1.10 **Subject Land** shall mean the land upon which the Project is situated, as more particularly described in Exhibit "A" attached.

## ARTICLE II PROJECT AND IMPROVEMENTS

- 21 **Submission to Declaration.** All of the Subject Land is part of the Harvest Park Subdivision, and shall be subject to the covenants, conditions, restrictions, easements, uses, limitations, and obligations set forth herein. Further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to the Lot Owners.
- 22 **Description of Improvements.** The Project shall initially consist of two phases and contain thirty-five (35) Lots, as shown on the Plats. Pursuant to Article IX below, the Project may be expanded to contain a total of up to seventy (70) Lots.

## ARTICLE III NATURE AND INCIDENTS OF OWNERSHIP

- 3.1 **Ownership and Maintenance of Lots.** The Lot Owners shall each repair and maintain all portions of their Lot and Dwelling.
- 3.2 **Landscape Installation.** The landscaping located on a Lot must be installed and completed within six (6) months from the date a certificate of occupancy is obtained or within six (6) months of the time a Dwelling is substantially completed. The six (6) month requirement may be extended during periods of inclement weather, but for no longer than three (3) additional months.

- 3.3 **Prohibition Against Subdivision of Lot.** No Owner, by deed, plat or otherwise, shall subdivide or in any manner cause his Lot to be subdivided, partitioned or separated into physical tracts or parcels smaller than the whole Lot as shown on the Plat.
- 3.4 **Exclusive Use of Lot.** All Lots and all improvements on a Lot are reserved for the exclusive use of the Owner of that Lot, and such Owner's invitees and guests and such areas shall be maintained and repaired at the expense of the Lot Owner.
- 3.5 **Fences and Walls.** Fences or walls shall be of wood, brick, wrought iron, plastic vinyl, or stone. No fence or wall shall be constructed of chain link, wire mesh, slump block (painted or unpainted), or concrete block unless first approved by the Architectural Control Committee, which approval maybe withheld by the Architectural Control Committee for any reason, in its sole and absolute discretion. Fences, walls, or hedges shall not exceed six (6) feet in height. Notwithstanding any other language in this Section 3.5, Declarant may install one or more chain link fences around the perimeter of the Project. Each Owner shall maintain the portion of any fence that abuts his or her Lot.
- 3.6 **Separate Mortgages by Owners.** Each Owner shall have the right separately to mortgage or otherwise encumber his Lot. Any mortgage or other encumbrance of any Lot shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

#### ARTICLE IV ARCHITECTURAL CONTROL COMMITTEE

- 4.1 **Architectural Control Committee.**
- (a) **Initial Architectural Control Committee.** During the Period of Administrative Control, the Architectural Control Committee for the Project shall be composed of Bruce L. Nilson, Jed Nilson, and David Lowry. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of death or resignation of any member of the Architectural Control Committee during the Period of Administrative Control, the remaining member(s) shall have full authority to designate a successor(s). The Lot Owners agree and acknowledge that the architectural standards and controls set forth herein are a material part of the Project and one of the reasons each Lot Owner has purchased a Lot within the Project.
- (b) **Replacement Architectural Control Committee.** After the Period of Administrative Control, the Owners may organize a new Architectural Control Committee. The members of the Architectural Control Committee shall be elected in writing by a majority of the Owners. Only Lot Owners shall be permitted on the Architectural Control Committee. Once an Architectural Control Committee is formed, the members of the Architectural Control Committee shall serve for a term

of two years or until three new members of are elected in writing by a majority of the Owners, whichever is earlier.

- (c) **Construction Approval.** No Building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to the quality of workmanship and materials, exterior colors, and harmony of external design with existing structures and the restrictions in this Declaration.
  - (d) **Architectural Control Committee Approval.** After the Period of Administrative Control, if an Owner desires to take any action requiring approval from the Architectural Control Committee pursuant to this Declaration and no Architectural Control Committee is then in existence, that Owner must either (i) organize a new Architectural Control Committee as contemplated in paragraph (b) above, or (2) instead of obtaining consent from the Architectural Control Committee, the Owner may obtain the written approval for the proposed action from a majority of the Lot Owners.
- 4.2 **No Liability for Damages.** The Architectural Control Committee members shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Declaration.

## ARTICLE V ARCHITECTURAL RESTRICTIONS

- 5.1 **Single Family Residence with Attached Garage.** All Lots in said Project shall be known and described as residential lots. Unless otherwise approved, in writing, by the Architectural Control Committee, no building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling not to exceed two stories in height and no less than a two car attached garage with no more than a four car attached garage and other out buildings approved in advance in writing by the Architectural Control Committee as herein below described.
- 5.2 **Setback Requirements.** All set back lines, side yards, and back yards shall be in accordance with applicable city ordinances.
- 5.3 **Building Size and Construction.** Except for those buildings approved, in writing, by the Architectural Control Committee, all Dwellings on the Property shall comply with the following minimum habitable floor areas, exclusive of porches, decks and garages:
- (a) **One-story structures,** with or without basements, shall have a minimum habitable ground floor space of one thousand, five hundred (1,500) square feet on the ground story level.

- (b) **Two (2) story structures** shall have a minimum habitable space of Eighteen Hundred (1,800) combined square feet on the ground story level and the story above the ground story level.

**54 Building Materials.**

- (a) **Exterior Surfaces.** All exterior surfaces of a Dwelling or outbuilding shall be covered with brick, rock, stone, stucco, fiber cement siding. (or a similar product to fiber cement siding) or a combination of such materials.
- (b) **Roofs.** All roofs in the Project shall be of architectural grade asphalt shingles or better. All roofs shall have a pitch of 5-12 or greater (rise over run shall be 5-12 or greater). Accent roofs of a 4-12 pitch and shed roof dormers are permitted. All roof vent cap louvers, plumbing stacks, chimney flashing, down spouts, and like or similar items are to be painted to match the color of the roof or the trim of the applicable dwelling or outbuilding.

**55 Variance.** A Lot Owner may build a Dwelling that does not comply with the restrictions in Sections 5.3 or 5.4 only if the Owner first receives prior written approval from the Architectural Control Committee.

**56 Utility Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction changes in the easement area of each lot and all improvements for which a public authority or utility company is responsible.

**ARTICLE VI  
RESTRICTIONS ON USE**

**61 Residential Uses Only.** Each Lot contained in the Project is intended to be used for single family residential housing and is restricted to such use. No Lot or Dwelling shall be used for business or commercial activity except that an Owner may operate an office or business out of their Dwelling provided that no business activity involving clients coming to the home on a regular basis (more than once a day) may take place nor shall the deliveries to the Dwelling more than twice per day.

**62 No Noxious or Offensive Activity.** No noxious or offensive trade or activity and no nuisance shall be carried on upon any Lot nor shall anything be done which may be or may become an annoyance in the neighborhood. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

**63 Restriction on Recreational Vehicles.** No boats, trailers, recreational vehicles, or inoperable vehicles shall be parked or stored on the driveway or in any area in front of any

Dwelling for more than 72 hours in any 30-day period. If such vehicles are stored on a Lot, they shall be stored in a garage or behind a fence so as not to be visible from the street. No automobile, recreation or commercial vehicle, other motorized vehicle, or any portion thereof shall be dismantled, rebuilt, serviced, repaired or repainted on or in the driveway of a Lot or in front of any Dwelling or Lot unless performed within a completely enclosed garage or other structure located on the Lot which screens the sight and sound of such activity from the public streets and neighboring Lots.

- 64 **Temporary Structure.** No trailer, basement, tent, shack, garage, barn, metal building, or other out-building erected in the subdivision shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.
- 65 **Construction Period Exemption.** During the course of actual construction of any structures or improvements which are permitted to be located on the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which would result in a violation of any of said provisions, covenants, conditions, or restrictions following completion of such construction.

#### **ARTICLE VII COMPLIANCE WITH DECLARATION**

- 7.1 **Compliance.** Each Owner shall comply with the provisions of this Declaration. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by a Declarant or any aggrieved Owner.
- 7.2 **Enforcement and Remedies.** The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, or in any supplemental or amended Declaration, shall be enforceable by Declarant or by any Owner of a Lot, by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due or unpaid.

#### **ARTICLE VIII DECLARANT'S SALES PROGRAM**

- 8.1 **Declarant's Right to Promote and Sell the Project.** Notwithstanding any other provisions of this Declaration, until Declarant ceases to be an Owner (the "Occurrence"), Declarant, its successor or assigns shall have the following rights, in furtherance of any sales, promotional or other activities designed to accomplish or facilitate the sale of Lots owned by Declarant:
- (a) **Sales Offices and Model Lots.** Declarant, its successors and assigns, shall have the right to maintain sales offices, including a trailer, and model homes on Lots. Sales offices may be located on any Lot (at any location) owned by Declarant. Declarant



shall have the right to maintain any number of model homes it may desire using the Lots Declarant owns.

- (b) **Promotional Devices.** Declarant, its successors and assigns, shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners and similar devices at any place or places on the Lots owned by Declarant, but any such devices shall be of sizes and in locations as are reasonable and customary.

## ARTICLE IX EXPANSION

9.1 **Declarant's Option to Expand.** Declarant hereby exclusively reserves the option to expand the Harvest Park Subdivision (the "Option to Expand") upon the terms and provisions set forth in this section without the prior consent of the Owners. Only Declarant and its assigns may exercise the Option to Expand, and Declarant and its assigns shall have the right to expand the Project even if the Declarant no longer owns any Lot within the Project. If the Option to Expand is exercised by Declarant or its assigns, it may do so at any time after the recording of this Declaration. There is no obligation of any kind whatsoever for the Declarant or its assigns to exercise the Option to Expand. The terms and conditions of the Option to expand shall be as follows:

- (a) The real property subject to the Option to Expand shall consist of property adjacent to the subdivision. Any property added to the Project pursuant to the Option to Expand shall not contain more than forty-one (35) Lots, meaning that the completed subdivision shall not contain more than a total of up to seventy (70) Lots.
- (b) Subject to the provisions of Section 9.1(c) below, the Option to Expand may be exercised at different times as to all or any portions of any additional property. In the event the Option to Expand is exercised with respect to a portion of the Additional Land, the Option to Expand may subsequently be exercised with respect to any other portion of Additional Land. There are no limitations as to when portions of the Additional Land may be added.
- (c) Declarant shall not be restricted in the location of improvements on the Additional Land or in the number or kind of Residences or structures that may be created on the Additional Land, except as may be required by applicable zoning requirements, ordinances or regulations, provided the Project when completed shall not exceed seventy (70) Dwellings, facilities and any other improvements required to be placed or developed thereon by the City or the County.
- (d) The Residences to be located on the Additional Land may be, but are not required to be, subject to the same uses as provided in this Declaration, as applicable. Declarant reserves the right to exercise all developmental rights reserved or afforded in this Declaration with respect to any Residences located on the Additional Land.

- (e) Declarant reserves the right to add Additional Land without limitation.

## ARTICLE X GENERAL PROVISIONS

- 10.1 **Intent and Purpose.** The provisions of this Declaration and any supplemental or amended Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Project. Failure to enforce any provision, restriction, covenant, or condition in this Declaration, or in any supplemental or amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.
- 10.2 **Construction.** The provisions of this Declaration shall be in addition and supplemental to all applicable provisions of law. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.
- 10.3 **Amendment.**
- (a) Except as otherwise provided herein, this Declaration, and any amendments to the Declaration, may be amended with or without a meeting of the Owners by the affirmative consent or vote of at least sixty-seven percent (67%) of the Owners. All necessary written consents must be obtained prior to the expiration of ninety (90) days from the date the first written consent is obtained. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by at least sixty-seven percent (67%) of the Lot Owners certifying that the vote required by this Article has occurred, which properly approved amendments shall be evidenced by instruments which are duly recorded in the office of the County Recorder for Davis County, State of Utah.
- (b) During the Period of Administrative Control, the Declarant shall have and is hereby vested with the right to amend this Declaration and the Plats by an instrument duly executed and acknowledged by Declarant and recorded in the Official Records of the County Recorder of Davis County, Utah. Such right of amendment shall apply without regard to the subject matter or the nature of the amendment involved, and such amendment shall not take away any substantive legal rights of those Owners who own a Lot at the time of such amendment by the Declarant. During any time Declarant holds an ownership interest in any Lot or in any portion of the property, no amendment shall be made to this Declaration without the written consent and approval of the Declarant.
- 10.4 **Effective Date.** This Declaration and any amendments thereto shall take effect upon recording.
- 10.5 **Owner's Obligations.** All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting,

or selling on contract his Lot. The Owner of a Lot shall have no obligation for expenses or other obligations accruing after he conveys title to such Lot.

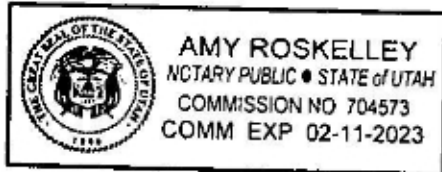
EXECUTED BY DECLARANT on the date of notarization appearing below:

**Harvest Park Community, LLC**

By Bruce L. Nilson  
Its: Manager

STATE OF UTAH                    )  
  :SS.  
COUNTY OF WEBER            )

On this 19<sup>th</sup> day of September, 2019, personally appeared before me Bruce L. Nilson who being by me duly sworn, did say that he is manager of Harvest Park Community, LLC, and that the within and foregoing instrument was signed in behalf of said limited liability company and he duly acknowledged to me he executed the same.



Amy Roskelley  
Notary Public

## Exhibit "A"

### LEGAL DESCRIPTION HARVEST PARK, PHASE 1 AND PHASE 2

ALL OF LOTS 101 THROUGH 129, HARVEST PARK PHASE 1, AND ALL OF LOTS 201 THROUGH 206, HARVEST PARK PHASE 2, SOUTH WEBER CITY, DAVIS COUNTY, UTAH. AS DESCRIBED BELOW:

A PORTION OF THE STAN COOK SUBDIVISION PHASE II AMENDED, TOGETHER WITH OTHER LANDS, LOCATED IN THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF SAID STAN COOK SUBDIVISION PHASE II AMENDED, SAID POINT BEING N00°36'39"E 776.10 FEET AND S89°23'21"E 1478.49 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 28; THENCE N01°22'05"E ALONG SAID WESTERLY LINE, 1445.99 FEET; THENCE ALONG A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 831.47 FEET, AN ARC LENGTH OF 144.24 FEET, A DELTA ANGLE OF 09°56'22", A CHORD BEARING OF N63°43'26"E, A RADIAL BEARING OF N21°18'23"W, AND A CHORD LENGTH OF 144.06 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 84; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE ALONG A COMPOUND CURVE TURNING TO THE LEFT WITH A RADIUS OF 1 0683.09 FEET, AN ARC LENGTH OF 590.14 FEET, A DELTA ANGLE OF 03°09'54", A CHORD BEARING OF S46°35'28"E, A RADIAL BEARING OF N44°59'29"E, AND A CHORD LENGTH OF 590.07 FEET; THENCE S41°49'35"W 73.89 FEET; THENCE S41°57'50"W 278.62 FEET; THENCE S48°02'10"E 115.00 FEET; THENCE S67°41'24"E 74.33 FEET; THENCE S48°02'10"E 119.03 FEET; THENCE S49°22'03"W 142.96 FEET; THENCE S89°49'50"W 101.70 FEET; THENCE S41°57'50"W 115.00 FEET; THENCE S45°05'02"E 41.74 FEET; THENCE S01°22'05"W 455.00 FEET; THENCE N88°37'55"W 130.81 FEET; THENCE N89°55'11 "W 70.02 FEET; THENCE N88°37'55"W 130.42 FEET TO THE POINT OF BEGINNING.

CONTAINING 575,573 SQUARE FEET OR 13.213 ACRES MORE OR LESS, AND;

A PORTION OF THE STAN COOK SUBDIVISION PHASE II AMENDED, TOGETHER WITH OTHER LANDS, LOCATED IN THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF LOT 125 OF HARVEST PARK PHASE 1, SAID POINT BEING S00°36'39"W ALONG THE SECTION LINE, 1031.79 FEET AND S89°23'21 "E 1826.29 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 28; THENCE N41°57'50"E ALONG THE OPEN SPACE PARCEL OF HARVEST PARK PHASE 1, 278.62 FEET; THENCE N41°49'35"E 73.89 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 84; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE ALONG A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 10683.09 FEET, AN ARC LENGTH

OF 121.34 FEET, A DELTA ANGLE OF 00'39'03", A CHORD BEARING OF S48'29'57"E, A RADIAL BEARING OF N41'49'35"E, AND A CHORD LENGTH OF 121.34 FEET; THENCE S01°05'20"W 434.32 FEET TO THE EXTENSION OF THE NORTHERLY LINE OF LOT 123 OF HARVEST PARK PHASE 1; THENCE N48'02'10"W 220.29 FEET; THENCE N67'41'24"W 74.33 FEET TO THE NORTHEAST CORNER OF LOT 124 OF HARVEST PARK PHASE 1; THENCE N48'02'10"W ALONG THE NORTHERLY LINE OF LOT 124 AND 125 OF HARVEST PARK PHASE 1, 115.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 90,149 SQUARE FEET OR 2.070 ACRES MORE OR LESS