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RASHELLE HOBBS
Recorder, Salt Lake County, UT
MORRIS SPERRY
BY: eCASH, DEPUTY - EF 12 P.

**THIRD AMENDMENT
TO THE
AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF BROOKSTONE**

This THIRD AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BROOKSTONE (this "Third Amendment") is adopted by the Brookstone Homeowner's Association (the "Association").

RECITALS

1. A "Declaration of Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium (Phase I)" (the "Enabling Declaration") was recorded with the Salt Lake County Recorder's office on June 12, 1978, as Entry No. 3121458.
2. A "Supplementary Declaration of and Amendment to Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium (Phase I)" was recorded with the Salt Lake County Recorder's office on February 5, 1979, as Entry No. 3233272, which document supplemented and amended the Enabling Declaration.
3. A "Second Supplementary Declaration to the Declaration of Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium Phase No. I Condominium Project" was recorded with the Salt Lake County Recorder's office on January 4, 1980, as Entry No. 3384830, which document further supplemented and amended the Enabling Declaration.
4. A "Third Supplementary Declaration to the Declaration of Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium Phase No. 1 Condominium Project" was recorded with the Salt Lake County Recorder's office on April 6, 1982, as Entry No. 3663886, which document further supplemented and amended the Enabling Declaration.
5. A "Fourth Supplementary Declaration to the Declaration of Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium Phase No. 1 Condominium Project" was recorded with the Salt Lake County Recorder's office on November 10, 1982, as Entry No. 3728826, which document further supplemented and amended the Enabling Declaration.
6. An "Amended and Restated Declaration of Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium" (the "Declaration") was recorded with the Salt Lake County Recorder's office on May 20, 1996, as Entry No. 6360654, which Declaration replaced the Enabling Declaration.

7. A "First Supplement to Amended and Restated Declaration of Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium" (the "First Amendment") was recorded with the Salt Lake County Recorder's office on July 30, 1996, as Entry No. 6416458. The First Amendment supplemented, modified, and amended certain terms of the Declaration.

8. A "Second Supplement to Amended and Restated Declaration of Covenants, Conditions and Restrictions of Brookstone, A Prowswood Open Space Community Condominium" (the "Second Amendment") was recorded with the Salt Lake County Recorder's office on March 27, 2002, as Entry No. 8186979. The Second Amendment supplemented, modified, and amended certain terms of the Declaration.

9. The Association desires to further amend the Declaration as set forth in this Third Amendment. This Third Amendment is adopted to include changes to the leasing and non-Owner occupancy provisions of the Declaration. More specifically, this Third Amendment is adopted to set a limit on the number of allowable rental Units, impose a minimum lease term of twelve (12) months, and further update and modify the leasing provisions of the Declaration.

10. Article III, Section 12(b) of the Declaration provides that the Association, acting through its Board of Trustees, shall have the power and authority to adopt administrative rules and regulations. The Association previously adopted administrative rules and regulations related to leasing and non-Owner occupancy. This Third Amendment incorporates many of these provisions previously adopted by the Association.

11. This Third Amendment affects the real property located in Salt Lake County, State of Utah, described with particularity on Exhibit 1 to this Third Amendment, which exhibit is incorporated herein by reference.

12. Unless otherwise set forth herein, the capitalized terms shall have their same meanings and definitions as stated in the Declaration. The term "Bylaws" used herein shall have the same meaning as the term "By-Laws" defined in the Declaration.

13. Pursuant to Article III, Section 26 entitled "Amendment" of the Declaration, the undersigned hereby certify that the vote required for this Third Amendment has occurred, and that this Third Amendment was approved by Owners holding at least sixty-seven percent (67%) of the Percentage Interest of the Association, as such Percentage Interest is set forth on Exhibit A to the Declaration. Pursuant to Article III, Section 30 of the Declaration and Utah Code §§ 57-8-39 & 57-8-41, the undersigned hereby certify that this Third Amendment was approved by the requisite number of first Mortgagees.

AMENDMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the Association hereby executes this Third Amendment to the Declaration, which Amendment shall be effective as of its recording date with the Salt Lake County Recorder's office.

1) **Amendment.** Article III, Section 12(c)(19) of the Declaration is deleted in its entirety and replaced by the following new Section 12(c)(19):

(19) **Leasing and Non-Owner Occupancy.**

(a) **Declaration and Rules Govern Non-Owner Occupancy.**

Notwithstanding anything to the contrary in the Declaration or in the Bylaws, any leasing and non-Owner occupancy of a Unit shall be governed by this Subsection 19 and the rules, regulations, and procedures adopted as allowed under this Subsection 19. If there is any discrepancy between this Subsection 19 and the Association's Bylaws, rules, regulations, or procedures, this Subsection 19 shall govern.

(b) **Definitions.** For the purpose of this Subsection 19:

(1) **"Non-Owner Occupied"** means:

- (i) For a Unit owned in whole or in part by a natural individual or individuals, the Unit is occupied by someone when no individual Owner occupies the Unit as the individual Owner's primary residence, or
- (ii) For a Unit owned entirely by one or more entities or trusts, the Unit is occupied by anyone.

(2) **"Family Member"** means:

- (i) The parent, sibling, or child of an Owner; or
- (ii) In the case of a Unit owned by a trust or other entity created for estate planning purposes, a Person occupying the Unit if the trust or other estate planning entity that owns the Unit was created for the estate of (1) a current occupant of the Unit, or (2) the parent, child, or sibling of the current occupant of the Unit.

(c) **Leasing and Maximum Number of Non-Owner Occupied Units.**

Subject to the other provisions of the Declaration and specifically this Subsection 19, the number of Units permitted to be Non-Owner Occupied within the Association at any one time is limited to twenty-two (22) Units. So long as there are less than twenty-two (22) total Non-Owner Occupied Units within the Project, any Unit may be leased or Non-Owner Occupied as long as such non-Owner occupancy complies with the provisions of Subsection 19 and other provisions of the Declaration. The twenty-two (22) Unit maximum shall be calculated by including any Units that are permitted to be Non-Owner Occupied pursuant to this Subsection 19(d). Any Units that are Non-Owner Occupied at the time this Third Amendment is recorded with the Salt Lake County Recorder's office shall be grandfathered and allowed to remain Non-Owner Occupied, subject to the provisions herein, until such time as the ownership of the Unit is conveyed or the Unit becomes Owner occupied. All grandfathered Units must conform to the provisions in this revised Subsection 19, and its subsections.

- (d) Permissible Non-Owner Occupied Units. The following Units may be Non-Owner Occupied, even if such non-Owner occupancy will result in more than twenty-two (22) Units being Non-Owner Occupied:
- (1) A Unit being rented pursuant to the provisions of the Association's governing documents at the time this Third Amendment is recorded in the Salt Lake County Recorder's office shall be grandfathered and permitted to rent, lease, or allow a non-Owner occupant to reside in the Unit until: (1) the Unit Owner occupies the Unit, or (2) the ownership of the Unit, as evidenced by the records at the County recorder, changes in any way. Upon a change of ownership or occupation by an Owner, the Unit's qualification for this exception irrevocably terminates.
 - (2) A Unit owned by a Person in the military for the period of the Owner's deployment.
 - (3) A Unit occupied by a Unit Owner's parent, child, or sibling.
 - (4) A Unit whose Owner is relocated by the Owner's employer for a period of two (2) years or less.
 - (5) A Unit that is owned by an entity and is occupied by a natural Person who: (1) has voting rights under the entity's organizing documents, and (2) has a twenty-five percent (25%) or greater share of ownership, control, and right to profits and losses of the entity.
 - (6) A Unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of: (1) a current resident of the Unit; or (2) the parent, child, or sibling of the current resident of the Unit.
- (e) Rules and Resolutions.
- (1) Required Rules, Regulations, or Resolutions. The Board of Trustees shall create, by rule, regulation, or resolution, procedures to:
 - (i) Determine and track the number of Units subject to Subsection 19(d), and
 - (ii) To ensure consistent administration and enforcement of this Subsection 19.
 - (2) Permitted Rules. The Board of Trustees may adopt rules or regulations requiring:
 - (i) Reporting and procedural requirements related to Non-Owner Occupied Units and the non-Owner occupants

of those Units other than those found in this Subsection 19, including requiring informational forms to be filled out by Owners and/or residents identifying non-Owner occupants, vehicles, phone numbers, etc.;

- (ii) Reasonable fees related to the administration of leased and Non-Owner Occupied Units, to the extent otherwise allowed by law, but at no time shall such fee be more than the actual costs incurred by the Association for such administration; and
 - (iii) Other reasonable administrative provisions consistent with and as it deems appropriate to enforce the requirements of this Third Amendment.
- (f) Requirements for Leasing and Non-Owner Occupancy. The Owners of all Units must comply with the following provisions:
- (1) If required in the rules or regulations or if requested by the Board, a copy of any lease or other agreement for non-Owner occupancy shall be delivered to the Association within the time period provided for in the rules or regulations or in the Board's request.
 - (2) No Unit may be leased or rented to another Person unless the Unit Owner has personally occupied, or resided in, the Unit for a period of at least one (1) year. However, this one (1) year residency requirement shall not apply to any Unit that may be a Non-Owner Occupied Unit under the provisions of Subsection 19(d).
 - (3) Any lease or agreement for otherwise allowable non-Owner occupancy must be in writing, must be for an initial term of at least twelve (12) months, and shall provide as a term of the agreement that the resident shall comply with the Declaration, including this Third Amendment, the Bylaws, and the rules and regulations, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement for non-Owner occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the resident.
 - (4) A non-Owner occupant may not occupy any Unit for transient, short-term (less than twelve (12) months), hotel, resort, vacation, or seasonal use (whether for pay or not).
 - (5) No Owner may lease individual rooms to separate Persons or lease less than the entire Unit.

- (g) Exceptions for Family Members. If only Family Members occupy a Unit then notwithstanding anything contrary herein, the following applies:
- (1) Subsections 19(f)(2)–(5) shall not apply to that occupancy;
 - (2) No written agreement regarding occupancy needs to be created between the occupant and the Owner; and
 - (3) Any written agreement regarding occupancy, to the extent it exists, may not be requested by the Board until a Family Member occupant of the Unit has violated a provision of the Association’s governing documents and if requested, may only be requested related to remedying or taking action as a result of such a violation.
- (h) Joint and Several Liability of Owner and Non-Owner Occupants. The Owner of a Unit shall be responsible for the occupant’s or any guest’s compliance with the Declaration, including this Third Amendment, Bylaws, and rules and regulations. In addition to any other remedy for non-compliance with the Declaration and this Third Amendment, after reasonable notice, the Association shall have the right to initiate an action and obtain a forcible entry and unlawful detainer order from the court, or similar action, with the purpose of removing the offending non-Owner occupant. The Association, the Board, and any manager of the Association shall not have any liability for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board, and any manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph.
- (i) Demanding Rental Payments from Tenant. Pursuant to Utah Code § 57-8-53, the Association shall have the right to demand and collect rent from any tenant in any Unit for which an assessment and/or other charges owed to the Association is more than sixty (60) days late.
- (j) Enforcement. In the event that an Owner or an Owner’s Family Member or tenant violate any provisions of this Subsection 19 or any other provisions of the Association’s governing documents, the Association or any aggrieved Owner shall have the right to enforce, by proceedings at law or in equity, all provisions in this Subsection 19 and other provisions of the Association’s governing documents against the Owner of the Unit and the Unit Owner’s tenants. The remedies and enforcement rights afforded to the Association, including but are not limited to levying fines, seeking injunctive relief, requesting eviction of a tenant by the Owner or by court order, and pursuing any other remedy allowed under the Association’s governing documents and Utah law. The Owner of the

Unit responsible for the Family Member or tenant's violations of the Association's governing documents shall be liable for all reasonable attorney's fees and costs incurred by the Association in pursuing an action against the Owner or the Owner's Family Member or tenant to enforce the terms of this Subsection 19 or other provisions of the Association's governing documents.

- (k) **First Mortgagee's or Lender's Rights.** Notwithstanding everything to the contrary herein contained, the provisions of this Subsection 19 shall not apply to impair the rights of any Mortgagee to: (1) Foreclose or take title to a Unit pursuant to remedies contained in any Mortgage; (2) Take a deed or assignment in-lieu of foreclosure; or (3) sell, lease, or otherwise dispose of a Unit acquired by the Mortgage.

2) **Conflicts.** All remaining provisions of the Declaration and any prior amendments not specifically amended in this Third Amendment shall remain in full force and effect. In the case of any conflict between the provisions of this document and the provisions of the Declaration or any prior amendments, the provisions of this document shall in all respects govern and control.

3) **Incorporation and Supplementation of Declaration.** This document is supplemental to the Declaration, which by reference is made a part hereof, and all the terms, definitions, covenants, conditions, restrictions, and provisions thereof, unless specifically modified herein, are to apply to this document and are made a part hereof as though they were expressly rewritten, incorporated, and included herein.

[INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Association executes this THIRD AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BROOKSTONE.

Dated this 13 day of JUNE, 2019.

BROOKSTONE HOMEOWNERS ASSOCIATION

By: DENNIS C. ALEXANDER

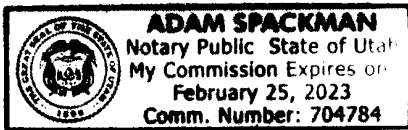
Name: Dennis C Alexander
Chairman of the Association's Board of Trustees

STATE OF UTAH)

ss:

COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 13 day of June, 2019, by Dennis Alexander, as Chairman of the Board of Trustees of the Brookstone Homeowners Association.



Adam Spackman
Notary Public

BROOKSTONE HOMEOWNERS ASSOCIATION

By: Joan W. Young

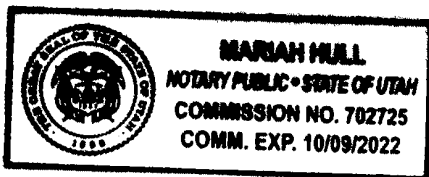
Name: Joan W. Young
Secretary of the Association's Board of Trustees

STATE OF UTAH)

ss:

COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 19 day of June, 2019, by Joan W. Young, as Secretary of the Board of Trustees of the Brookstone Homeowners Association.



Mariah Hill
Notary Public

EXHIBIT 1
(Legal Description)

The Land described in the foregoing document is located in Salt Lake County, Utah and is described more particularly as:

PHASE ONE

Beginning at a point on the centerline of 6400 South Street, said point being S 0°07'45" W 1404.54 feet; thence N 89°57'30" W 2639.85 feet to a monument; thence 89°46'54" W along the centerline of said 6400 South Street 378.466 feet from the Northeast Corner of Section 21, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 356.88 feet; thence East 59.25 feet; thence South 338.00 feet; thence West 112.00 feet; thence South 160.45 feet; thence S 60°00' W 176.17 feet to a point on a curve to the right, the radius point of which is N 60°00 E 232.50 feet; thence Northwesterly along the arc of said curve 29.42 feet to a point of tangency; thence N 22°45' W 161.05 feet to a point of a 1150.0 foot radius curve to the left; thence Northwesterly along the arc of said curve 225.80 feet to a point of a reverse curve to the right, the radius point of which is N 56°00 E 210.0 feet; thence Northerly along the arc of said curve 142.94 feet; thence S 87°13'06" W 196.87 feet; thence N 2°46'54" W 447.00 feet to the centerline of said 6400 South Street; thence S 89°46'54" E along said centerline 641.234 feet to the point of beginning.

RESERVED FROM THE FOREGOING SUBMISSION are such easements and rights of ingress and egress over, across, through, and under the above-described tracts and any improvements now or hereafter constructed thereon as may be necessary to develop the entire Project. If pursuant to this reservation, the above-described real property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation hereby effected shall terminate upon the completion and sale by Declarant of all Units in the Project. The foregoing submission is subject to a 12 ft. drainage and irrigation easement to Salt Lake County Flood Control and to Little Cottonwood Ditch Company described as follows:

Beginning at a point on the South line of 6400 South Street said point being South 1431.74 feet and West 3661.10 feet from the Northeast corner of Section 21, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence South 2°46'54" East 413.95 feet; thence North 87°13'06" East 12.00 feet; thence North 2°46'54" West 413.32 feet to the South line of said 6400 South Street; thence North 89°46'54" West along said South line 12.02 feet to the point of beginning. And subject, also, to easements of record and visible and subject, further, to restrictions, conditions and covenants of record.

PHASE TWO

Beginning at the center of Section 21, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running thence N 89°37'20" W along the South line of the Northwest quarter of said second 1096.07 feet to the East line of Rothmoor Estates No. 1 Subdivision; thence along the East line of said Subdivision as follows: N 26°13'06" E 287.73 feet; thence N 70°43'06" E 188.10 feet; thence N 26°16'54" W 272.24 feet; thence N 36°31'54" W 132.00 feet; thence N 2°46'54" W 114.01 feet; thence leaving said East line N 87°13'06" E 196.87 feet to a point on a curve to the left; the radius point of which is S 85°00' E 210.0 feet; thence Southeasterly along the arc of said curve 142.94 feet, to a point of a reverse curve to the right, the radius point of which is S 56°00' W 1150.0 feet; thence Southeasterly along the arc of said curve 225.80 feet to a point of tangency; thence S 22°45' E 161.05 feet to a point of a 232.50 foot radius curve to the left; thence Southeasterly along the arc of said curve 29.42 feet; thence N 60°00' E 176.17 feet; thence North 160.45 feet; thence East 112.00 feet; thence North 338.0 feet; thence East 68.765 feet to a point of a 90.0 foot radius curve to the right; thence Southeasterly along the arc of said curve 145.56 feet to a point of tangency; thence S 2°40' W 137.00 feet to a point of a 1000.00 foot radius curve to the left; thence Southerly along the arc of said curve 168.715 feet to a point of tangency; thence S 7°00' E 170.00 feet to a point of 120.0 foot radius curve to the right; thence Southwesterly along the arc of said curve 128.42 feet; thence S 35°41' E 38.465 feet; thence S 89°54'30" E 325.20 feet; thence S 0°05'30" W 56.135 feet; thence S 20°14'17" W 85.37 feet; thence S 0°16'04" W 31.00 feet; thence N 89°43'56" W 130.90 feet to the point of beginning. Contains 12.197 acres.

Subject to easements of record, and visible, and subject, also, to restrictions and covenants of record.

RESERVING UNTO THE DECLARANT a perpetual 24 foot right-of-way easement for ingress and egress the centerline of which is described as follows:

Beginning at a point on the South right of way line of 6400 South Street, said point being North 89°46'54" West along the center line of said 6400 South Street 537.59 feet and South 0°13'06" West 33.00 feet from a Salt Lake County Monument at point where the center line of said 6400 South Street intersects the West line of the Northeast quarter of Section 21, Township 2 South, Range 1 East, Salt Base and Meridian; said point of beginning also being North 1203.13 feet and West 535.74 feet from the center of said Section 21 and running thence South 0°13'06" West 324.485 feet; thence East 288.50 feet to a point of a 90.0 foot radius curve to the right; thence Southeasterly along the arc of said curve 145.56 feet to a point of tangency; thence South 2°40' West 137.00 feet to a point of a 1000.0 foot radius curve to the left; thence Southerly along the arc of said curve 168.715 feet to a point of tangency; thence South 7°00' East 170.00 feet to a point of 120.00 foot radius curve to the right; thence Southwesterly along the arc of said curve 128.42 feet; thence South 35°41' East 38.465 feet; thence South 89°54'30" East 170.58 feet; thence South 69°54'30" East 21.93 feet; thence South 89°54'30" East 52.82 feet; thence South 44°54'30" East 102.47 feet to a point on the Northwesterly line of a RV storage area said point

being North 86.68 feet and East 151.80 feet from the center of said Section 21.

PHASE THREE

Beginning at a point which is South 89°43'56" East along the quarter section line 160.61 feet and North 129.88 feet from the center of Section 21, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence North 0°05'30" East 37.495 feet; thence North 89°54'30" West 325.20 feet; thence North 35°41' West 38.465 feet to a point on a 120.00 foot radius curve to the left the center of which bears North 35°41' West from said point; thence Northerly along the arc of said curve 128.42 feet to the point of tangency; thence North 7°00' West 170.00 feet to a point of a 1000.00 foot radius curve to the right; thence Northerly along the arc of said curve 168.715 feet to the point of tangency; thence North 2°40' East 24.90 feet; thence South 89°54'30" East 168.00 feet; thence South 0°05'30" West 7.76 feet; thence South 89°54'30" East 138.19 feet to an old fence line; thence South 0°30' East long said fence line 123.73 feet; thence South 89°57'30" East 157.87 feet to an old fence line; thence South 0°35' East along said fence line 411.52 feet thence North 89°54'30" West 144.92 feet to the point of beginning. Contains 4.949 acres.

PHASE FOUR

Beginning at a point on an old fence line which point is South 89°43'56" East along the quarter section line 142.39 feet and North 664.90 feet from the center of Section 21, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence North 89°54'30" West 138.19 feet; thence North 0°05'30" East 776 feet; thence North 89°54'30" West 168.00 feet; thence North 2°40' East 112.10 feet to a point of a 90.0 foot radius curve to the left; thence northwesterly along the arc of said curve 145.56 feet to a point of tangency; thence West 128.015 feet; thence North 356.88 feet to the centerline of 6400 South Street; thence South 89°46'54" East along said centerline 371.27 feet to a point on the extension of an old fence line; thence South 0°15' East along said extension and fence line 281.07 feet; thence South 89°57'30" East 143.87 feet to an old fence line; thence South 0°30' East along said fence line 288.72 feet to the point of beginning.