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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
JONES WALDO
170 S MAIN ST #1500
SLC UT 84101
BY: TCA, DEPUTY - WI 14 P.

AFTER RECORDING, MAIL TO:

Richard A. Smith
Laurel Smith
6369 South Cobblestone Lane
Holladay, UT 84121

(Space Above This Line For Recorder's Use)

DECLARATION OF RESTRICTIVE COVENANTS

(6369 South Cobblestone Lane, Holladay, Utah)

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this 3rd day of December, 2014, by RICHARD A. SMITH and LAUREL SMITH, husband and wife, as joint tenants (collectively, the "Smiths").

RECITALS:

WHEREAS, as of the date of this Declaration, the Smiths are the fee owners of that certain parcel of real property, containing approximately 1.19 acres of land, located at 6369 South Cobblestone Lane, in the City of Holladay, County of Salt Lake, State of Utah, known as APN 22-22-227-007-0000, and more particularly described in **Exhibit A** to this Declaration (the "Smith Property").

WHEREAS, the Smith Property is a portion of a larger subdivision, located on South Cobblestone Lane, in the City of Holladay, County of Salt Lake, State of Utah, and more particularly described in **Exhibit B** to this Declaration, and commonly known as the "Cobblestone Lane Subdivision".

WHEREAS, the entire Cobblestone Lane Subdivision, including without limitation, the Smith Property, is encumbered by and subject to that certain Use Restrictions Agreement dated April 23, 1949, and recorded in the official records of Salt Lake County, Utah ("Official Records"), on April 30, 1949, in Book 675, Pages 356-59, as Instrument No. 1155680 (the "CCRs"). A copy of the recorded CCRs is attached as **Exhibit C** to this Declaration.

WHEREAS, the CCRs have not been terminated, amended, or modified.

WHEREAS, Section (c) of the CCRs provides that "No trailer, basement, tent, shack, garage, barn, or other building, except a dwelling house erected on any lot within said subdivision shall at any time be used as a residence, either temporarily or permanently. No structure of a temporary nature shall be used as a residence in said subdivision."

WHEREAS, Section (d) of the CCRs provides that *“No residential structure shall be erected or placed upon any plot of ground within said subdivision, which plot is less than an acre in size, excepting Lot No. 8 of said subdivision, which is smaller than one acre in area, it being the intention of the parties to this agreement to provide for residential lots of a minimum size of one acre per dwelling.”*

WHEREAS, the CCRs further provide that *“If the parties hereto or their heirs or assigns, shall violate or attempt to violate any of the covenants herein contained, it shall be lawful for any other person or persons owning land within the said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the said covenants, and to prevent him or them from so doing and/or to recover damages for such violation.”*

WHEREAS, as of the date of this Declaration, the Smith Parcel is improved with a dwelling house, and a separate detached garage.

WHEREAS, a dispute has arisen between certain owners of other parcels within the Coblerock Lane Subdivision, on the one hand, and the Smiths, on the other hand, concerning certain uses of the Smith Property (the **“Dispute”**).

NOW, THEREFORE, in consideration of the foregoing Recitals, which Recitals are hereby incorporated as an integral part of this Declaration by this reference, the pending resolution of the Dispute, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Smiths hereby declare that the Smith Property is subject to the use restrictions set forth herein. Upon recordation of this Declaration, any conveyance, transfer, sale, hypothecation, assignment, lease or sublease of all or any portion of the Smith Property, shall be and hereby is deemed to incorporate by reference the provisions of this Declaration.

1. **RATIFICATION OF CCRS.** The Smiths hereby acknowledge and agree that the CCRs are currently in full force and effect, and have been in full force and effect at all times since the date the CCRs were initially recorded in the Official Records, except to the extent that Section (g) of the CCRs is not enforceable in accordance with applicable laws.

The Smiths further acknowledge, ratify, and agree that the Smith Property is encumbered by and subject to the CCRs and that the Smiths, their successors and assigns as the owners of all or any portions of the Smith Property, and any tenants and/or other occupants of the Smith Property, now or in the future (collectively, **“Smith Property Occupants”**), are and shall be bound by the CCRs (other than Section (g)), and shall fully-comply with the CCRs and each and every provision of the CCRs (other than Section (g)).

Without limitation of the foregoing, the Smiths hereby, acknowledge, agree, and re-affirm that the CCRs prohibit more than one (1) structure on the Smith Property being used as a residence, and that if at any time more than one (1) structure on the Smith residence is used as a residence, the same shall constitute a violation of the CCRs and this Declaration.

2. **ENFORCEMENT BY OWNERS OF THE COBBLEROCK LANE SUBDIVISION.** If at any time now or in the future, the Smiths and/or any Smith Property

Occupant or Occupants shall violate or attempt to violate the CCRs and/or this Declaration, any owner of any portion of any property within the Cobblestone Lane Subdivision shall have the right to enforce the CCRs and/or this Declaration and pursue any and all rights and/or remedies which may be available to such owner pursuant to the CCRs, this Declaration, at law, or in equity. The Smiths acknowledge and agree that, as consideration for settlement of the Dispute, the Smiths and certain current owners of parcels within the Cobblestone Lane Subdivision have bargained for specific performance of the covenants, conditions and restrictions contained in this Declaration, and that in the event of any violation and/or attempted violation of the CCRs and/or this Declaration, each of the current and future owners of any portion of the Cobblestone Lane Subdivision shall be entitled to (i) injunctive relief, including but not limited to temporary restraining orders, preliminary injunctions and permanent injunctions, both mandatory and prohibitory, and/or (ii) recovery of all of such owner's costs and expenses, court costs, filing fees, and attorney fees. Under no circumstance whatsoever shall the existence of or potential for any violation of the CCRs and/or this Declaration, or the failure by all or any owner the Cobblestone Lane Subdivision to bring an action to enforce the CCRs and/or this Declaration with respect to any violation or potential violation, be deemed to be a waiver of any rights or remedies with respect to such violation or potential violation, or any future violation, whether such violation is of a comparable or different nature.

3. **THIRD PARTY BENEFICIARIES.** The owners of all or any portion of the Cobblestone Lane Subdivision are intended to be third party beneficiaries of this Declaration with the rights to enforce the CCRs and this Declaration set forth herein, and all remedies described herein.

4. **GOVERNING LAW.** This Declaration shall be governed by and construed in accordance with the laws of the state of Utah and shall be binding upon the Smiths and their respective successors in title, and any Smith Property Occupants, now or in the future.

5. **COVENANTS RUN WITH THE LAND.** Each covenant and restriction set forth in the CCRs and/or this Declaration shall run with the land and create equitable servitudes in favor of the respective parcels of real property within the Cobblestone Lane Subdivision benefited thereby, and shall bind every person having any fee, leasehold or other interest in the Smith Property, and shall inure to the benefit of the current and future owners of the Cobblestone Lane Subdivision, or any portion thereof, and their successors, assigns, heirs, and personal representatives. From and after the conveyance of all or any portion of the Smith Property by the Smiths, the transferee acquiring title to the Smith Property or any portion thereof shall be responsible for such duties and obligations by virtue of becoming an owner of the Smith Property or portion thereof; *provided, however*, that neither the Smiths nor any future owner of the Smith Property transferring title to all or a portion of the Smith Property shall be released from any liability, damage or other claims resulting from such owner's failure to comply with its duties and obligations under the CCRs and/or this Declaration prior to such conveyance.

6. **SEVERABILITY.** In the event that any provision of the CCRs and/or this Declaration is held to be invalid or unenforceable, such holding shall not affect the validity or enforceability of any other provision of the CCRs or this Declaration. No amendment to this Declaration and no waiver of any right hereunder shall be binding upon any owner of any portion of the Cobblestone Lane Subdivision, unless such amendment or waiver is in writing and signed

by the owner of the parcel of the Cobblerock Lane Subdivision against whom enforcement thereof is sought. No failure of any owner of the Cobblerock Lane Subdivision to exercise any power or right granted hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms herewith, shall constitute a waiver of said right or power, or of the right of such owner or any other owner or future owner of the Cobblerock Lane Subdivision, to demand exact compliance with the terms hereof.

7. **REMEDIES CUMULATIVE.** All rights and remedies specified herein shall be cumulative and in addition to all other rights and remedies permitted hereunder, at law, or in equity.

8. **NO TERMINATION FOR BREACH.** No breach hereunder shall entitle any person to cancel, rescind, or otherwise terminate the CCRs or this Declaration.

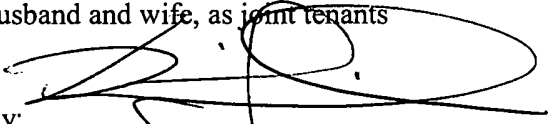
9. **TERM.** The covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the Official Records, and shall remain in full force and effect thereafter in perpetuity, unless this Declaration is modified, amended, canceled or terminated by the written consent of all then record owners of the Cobblerock Lane Subdivision in accordance with **Section 11** hereof.

10. **AMENDMENT.** This Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of all record owners of the Cobblerock Lane Subdivision, evidenced by a document that has been fully executed and acknowledged by all such record owners of the Cobblerock Lane Subdivision and recorded in the Official Records. This Declaration may be modified, amended, or terminated however, without obtaining the approval or consent of any tenant of any parcel of the Cobblerock Lane Subdivision, or any portion thereof.

12. **RECORDING.** The Smiths hereby authorize the other owners of the Cobblerock Lane Subdivision and/or their attorneys, to cause this Declaration to be recorded against the Smith Property in the Official Records.

IN WITNESS WHEREOF, the Smiths have executed this Declaration of Restrictive Covenants as of the date first above written.

Richard A. Smith and Laurel Smith,
husband and wife, as joint tenants

By: 
Richard A. Smith

By: 
Laurel Smith

STATE OF UTAH)

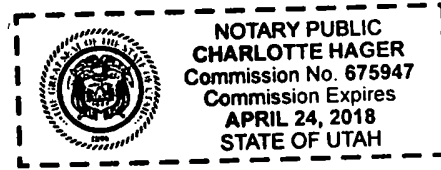
: ss.

COUNTY OF SALT LAKE)

On this day of Dec 3, in the year 2014, before me, Charlotte Hager, a notary public, personally appeared Richard A. Smith, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged he executed the same.

Witness my hand and official seal

Charlotte Hager
Notary Public



(seal)

STATE OF UTAH)

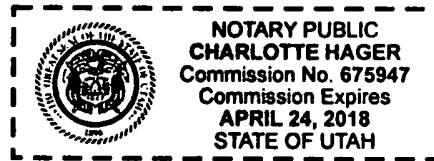
: ss.

COUNTY OF SALT LAKE)

On this day of Dec 3, in the year 2014, before me, Charlotte Hager, a notary public, personally appeared Laurel Smith, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged he executed the same.

Witness my hand and official seal

Charlotte Hager
Notary Public



(seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE SMITH PROPERTY

LOT 5, COBBLEROCK LANE SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER, STATE OF UTAH.

APN: 22-22-227-007-0000

6369 South Cobblerock Lane, Holladay, Utah

EXHIBIT B

LEGAL DESCRIPTION OF THE COBBLEROCK LANE SUBDIVISION

That certain real property situate in Salt Lake County, State of Utah, and described as follows:

All of Lots 1 to 9 inclusive, Cobblerock Lane, a subdivision of the following described premises, to wit:

Commencing 1110.96 feet West from the Northeast corner of Section 22, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence West 143.94 feet; thence North 80 rods; thence East 24 rods; thence North 986.05 feet; thence North 75° 34' West 176 feet; thence North 32° 32' West 151.75 feet; thence North 162.14 feet to the point of beginning, containing 10.36 acres, more or less.

EXHIBIT C

COPY OF RECORDED CCRS

[attached]

1155680

Recorded at Request of Arnold J. Miller APR 20 1948
at 10:14 AM Fee paid \$ 3.10 Hazel Tarrant Class Recorder Salt Lake County Utah
By O. Schwitz Dep. Book 675 Page 356 Ref. 28-125-3
2548 E 2700 10th

USE RESTRICTIONS AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the undersigned are all the owners of a certain parcel of real property situate in Salt Lake County, State of Utah and described as follows, to-wit:

All of lots 2 to 9 inclusive, Cobblersrock Lane, a subdivision of the following described premises, to-wit:

Commencing 1110.96 feet West from the Northeast corner of Section 22, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence West 143.94 feet; thence North 60 rods; thence East 24 rods; thence North 986.95 feet; thence North 75° 34' West 176 feet; thence North 32° 32' West 151.75 feet; thence North 162.14 feet to the point of beginning, containing 10.36 acres, more or less,

and,

WHEREAS, said owners have subdivided said land into building lots in the subdivision designated Cobblersrock Lane Subdivision, and have filed and recorded a plat thereof as required in the office of the County Recorder of Salt Lake County, State of Utah, and

WHEREAS, it is desired for the benefit and protection of the owners of the respective lots within said subdivision to provide certain use restrictions which shall govern and control the use and enjoyment of the lots within said subdivision,

NOW, THEREFORE, the undersigned, being the owners of all the land within said Cobblersrock Lane Subdivision, do hereby declare and agree that each and all of the lots within said subdivision shall be owned, held, enjoyed and conveyed by the owners and the successive grantees thereto, their heirs and assigns, subject to the following restrictions:

(a) No building or structure shall be erected for use or be used for any purpose within said subdivision except as a dwelling. This restriction, however, shall not be construed to prohibit the erection of garages, a private stable, a private hot house, or such out buildings as are necessary to house domestic animals permitted to be raised within said subdivision under the provisions of paragraph (f) of this agreement.

(b) No dwelling house costing less than Five Thousand Dollars shall

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be constructed upon any lot within said subdivision, and the ground floor area of any such dwelling house, exclusive of open porches and garages, shall not contain less than one thousand square feet.

(c) No building, basement, tent, shack, garage, barn, or other building, except a dwelling house erected on any lot within said subdivision shall at any time be used as a residence, either temporarily or permanently. No structure of a temporary nature shall be used as a residence in said subdivision.

(d) No residential structure shall be erected or placed upon any plot of ground within said subdivision, which plot is less than an acre in size, excepting Lot No. 8 of said subdivision, which is smaller than one acre in size, it being the intention of the parties to this agreement to provide for residential lots of a minimum size of one acre per dwelling.

(e) No obnoxious or offensive trade or activity shall be carried on within said subdivision, nor shall any activity be carried on within said subdivision which may be or become a nuisance or annoyance to other occupants of said subdivision or lands adjacent thereto.

(f) No animals or fowls may be raised for commercial purposes within said subdivision. Owners of lots within said subdivision, however, may raise and keep domestic animals, such as dogs, horses, rabbits, a cow and one calf, and not more than one chicken, or other fowls, for their own use, provided the same do not become a nuisance or annoyance to other owners within the said subdivision or lands adjacent thereto. The raising of hogs within the said subdivision is expressly prohibited.

(g) No person of any race other than Caucasian race shall use or occupy any land within the said subdivision. This restriction shall not prohibit the occupancy by Caucasian persons of a different race residing with the owner or tenant of any premises within said subdivision.

(h) All lots within said subdivision shall be subject to a right of easement, for utility lines, for the installation of electric lines, for telephone lines, and for the installation of necessary fire lines.

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These covenants shall run with the land and shall be binding on all owners of lots within said subdivision until January 1, 1970, at which time said covenants shall be automatically extended for successive periods of ten years back unless by the vote of a majority of the owners in the subdivision these covenants are changed, modified, or nullified in whole or in part.

If the parties hereto or their heirs or assigns, shall violate or attempt to violate any of the covenants herein contained, it shall be lawful for any other person or persons owning land within the said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the said covenants, and to prevent him or them from so doing and/or to recover damages for such violation.

The invalidity of any covenant contained herein shall in no wise effect any of the other provisions hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being all the owners of the lots within said Cobblebrook Lane Subdivision, have hereunto set their hands this _____ day of _____, 1969.

Austin W. Miller
Barbara L. Bee Miller
Frank A. Cannon
Gene J. Cannon
Edwin Cannon Jr.
Jessie P. Cannon
Kate Cannon
Alice J. Cannon
Robert Cannon
Arthur Lee Cannon
Harold D. Miller
Barbara L. Miller

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STATE OF CALIFORNIA }
COUNTY OF KERN } SS.

On this 29th day of April, 1949, personally appeared before me Austin P. Miller and Pauline La Bee Miller, husband and wife, personally known to me to be two of the signers of the foregoing instrument, who duly acknowledged to me that he/she executed the same.

[Signature]
Notary Public,
Residing at Bakersfield, California

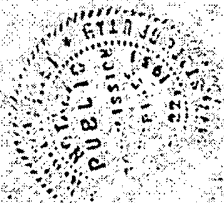
My commission expires:
By Commission Expires January 19, 1950

STATE OF UTAH }
COUNTY OF SALT LAKE } SS.

On this 29th day of April, 1949, personally appeared before me Harold G. Miller and Barbara C. Miller, husband and wife; Edwin Q. Cannon, Jr., and Janeth Cannon, husband and wife; Kent F. Cannon and Hortense Cannon, husband and wife; Espey T. Cannon and Alice F. Cannon, husband and wife; and Karl Pannier and Vera S. Pannier, husband and wife, ten of the signers of the foregoing instrument, who each duly acknowledged to me that he/she executed the same.

[Signature]
Notary Public,
Residing at Salt Lake City, Utah.

My commission expires:
June 22, 1951



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