

When Recorded, Return to:

Sainsbury-Simmons I, LLC  
1025 East 13200 South  
Draper, Utah 84020

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07/07/2014 03:02 PM \$41.00  
Book - 10243 Pg - 8130-8143  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
SAINSBURY SIMMONS LTD  
1025 E 13200 S  
DRAPER UT 84020  
BY: TCP, DEPUTY - WI 14 P.

**DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
SAINSBURY-SIMMONS I SUBDIVISION**

THIS DECLARATION, made this 3 day of July, 2014 ("Declaration") by Sainsbury-Simmons I, L.L.C., a Utah Limited Liability Company, hereinafter referred to as "Grantor";

**RECITALS**

A. The Grantor is the Owner of real property in the City of Draper, County of Salt Lake, State of Utah, more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference and hereinafter referred to as the "Property," and,

B. Grantor desires to create on the Property a (5) lot residential Minor Subdivision and desires to provide for the preservation of value in and desirability of the Property. To this end, Grantor desires to subject the Property to the easements, covenants, conditions, restrictions, reservations, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and for each subsequent Owner and Occupant thereof,

Sainsbury-Simmons I Subdivision  
CC&R's  
June 2, 2014

NOW, THEREFORE, Grantor hereby declares that the Property shall be held, transferred, sold, conveyed, leased, subleased and occupied subject to the following easements, covenants, conditions, restrictions, reservations, charges and liens which shall run with the Property and are for the purpose of protecting the value and desirability of the Property, and every portion thereof, and shall be binding upon all parties having any right, title, or interest in the Property or any portion thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof:

### **PURPOSE OF THIS DECLARATION**

This Declaration is made in order to provide a Uniform Plan for the development, improvement and use of the Property so as to:

(a) Protect the Owners and Occupants of the Lots against such use of neighboring Lots as might depreciate the value of their property;

(b) Encourage the erection of attractive, permanent Improvements appropriately located to insure harmonious appearance and functions;

(c) Provide such other services related to any of the foregoing as in the opinion of the Grantor shall benefit the Property;

The Grantor does hereby adopt, establish and impose the following easements, covenants, conditions, restrictions, reservations, charges, and liens upon the Property, which easements, covenants, conditions, restrictions, reservations, charges, and liens shall be deemed to be included in all future contracts for deed, deeds and leases of the Property, or any portion thereof, the same as if such provisions were set forth verbatim therein, as covenants running with the Property, to wit:

## I. DEFINITIONS

(a) "**Declaration**" shall mean this Declaration of Covenants, Conditions, and Restrictions, together with all of the provisions contained herein.

(b) "**Grantor**" shall mean Sainsbury-Simmons I, L.L.C., or its successors and assigns, if such successors and assigns are the Owner or Owners of any portion of the Property and/or are designated by Sainsbury-Simmons I, L.L.C., to perform the obligations of the Grantor hereunder.

(c) "**Improvements**" shall mean and include, but not be limited to buildings, out buildings, driveways, exterior lighting, fences, landscaping, lawns, parking areas, retaining walls, roads, screening walls, utilities, walkways, berms and swales located on a Lot.

(f) "**Landscaping**" shall mean a space of ground covered with lawn, and/or ground cover combined with shrubbery, trees and the like, which may be complemented with earth berms, masonry or similar materials, all harmoniously combined with themselves and with other improvements on the Lot.

(h) "**Lot**" is synonymous with on the five residential lots or shall mean a tract of real property within the Property, as determined by the legal description in a conveyance or lease from Grantor or any parcel of land shown upon any recorded subdivision map excluding public rights-of-way. Lots shall not be resubdivided unless there is unanimous consent by all adjacent property owners to the Lot within and without the subdivision and provided they meet the requirements of Draper City Codes. Any such resubdivided Lot shall conform to this Declaration.. If fee simple title to two (2) or more adjacent Lots, as

defined hereinabove, is acquired by the same Owner, such commonly owned Lots may, at the option of said Owner, be combined and treated as a single Lot for the purposes of this Declaration except for purposes of assessment of expenses for the Lane as defined below.

(i) "**Occupant**" shall mean an entity, whether it be an individual, corporation, joint venture, partnership, limited liability company or association, which has purchased, leased, rented or has otherwise acquired the right to occupy and use any Lot.

(j) "**Owner**" shall mean an entity, whether it be an individual, corporation, joint venture, partnership, limited liability company, association or other entity, which is the record owner of any fee simple estate to any Lot which is a part of the Property, or which has an equity of redemption in a Lot. .

## **II. LAND USE**

Lots within the Property shall be used for residential and ancillary agricultural purposes only. No portion of the Property may be occupied by any use which is in violation of applicable ordinances, laws and regulations of any governmental entity having jurisdiction over the use of any or all of the Property.

## **III. RESTRICTIONS AND REQUIREMENTS ON IMPROVEMENTS**

The following restrictions and requirements are imposed on the property subject to this Declaration and are binding on all Owners and Occupants, and may be enforced against such Owners and Occupants jointly and/or severally.

**1. Temporary Structures.** No temporary Buildings or other temporary structures shall be permitted on any Lot, provided, however, trailers, temporary buildings and the like shall be permitted for construction purposes during the construction period of a

permanent Building. The location and nature of such structures must be submitted to Grantor for written approval and shall be placed as inconspicuously as practicable, shall cause no material inconvenience to Owners or Occupants of other Lots, and shall be removed not later than thirty (30) days after the date of substantial completion for beneficial occupancy of the Building(s) in connection with which the temporary structure was used.

**2. Completion of Construction.** Once begun, any Improvements, construction, Landscaping, or alterations approved by the Grantor shall be diligently prosecuted to completion. If reasonably necessary for construction of such Improvement, Landscaping or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy unimproved Lots owned by Grantor in the immediate vicinity of the activity, provided that, on completion of construction such unimproved Lots shall be restored at such person's or persons' cost to a condition equivalent to their condition immediately prior to such use.

**3. Building Set-back Requirements.** Lot lines, or where interior side yard lot lines and rear yard lot lines abut with other Lots, the set back shall be governed by Draper City Building Code with the exception that there shall be no buildings, structures, sheds, barns or any type of structure whatsoever erected, placed or positioned within (50') of the boundary line of Parcel No. 28-32-178-028-0000, referred to as 1025 East 13200 South, Draper, Salt Lake County, Utah 84020 on Lots 3 or 4, unless owned by the Grantor.

**4. Site Grading and Swale System.** Earth mounding is required as a screen along the street in front of parking and service area where practical. Where mounding is not

practical, landscaping shall be used to screen parking and service areas; mounding is not required where landscaping extends from the street to the building. An open swale storm drainage system has been developed for use on all lots within the Property. Each lot owner must maintain the flow of the swale system according to the approved plat and improvement plans. Stripping of top soil or removal of top soil is prohibited from any Lot except for the purposes of excavation of basements, building pads, driveways and swimming pools.

5. **Landscaping.** Landscaping shall be installed within Ninety (120) days after completion of building construction or as soon after as weather will permit. Site landscaping includes all planted materials, site furniture, site lighting, and mechanical equipment incidental to any Building. The Lot owner is required to landscape and maintain the swale system. The swale shall be kept free of trash and debris to allow for proper drainage. .

6. **Utility Connections.** All utility lines, connections and installations must be underground and rise within the building or fixture. Any external transformers, meters and similar apparatus must be at ground level and screened so as to minimize visibility thereof from any street. In order to maintain the appearance and integrity of the roadways , the Grantor has installed all fire, sewer and water laterals necessary for the development at the time of installation of road and utility improvements.

7. **Large Animals Allowed.** All Lot Owners expressly agree and understand that all (5) Lots are allowed to have large animals on them which shall include but not be limited to horses, cows, llamas, sheep and goats. Smaller animals are also allowed such as

chickens, dogs, cats, and other animals as allowed by Draper City Code.

8. **High Water Table Warning.** Notice is hereby given that the water table for the subdivision is approximately (5-6 ) feet below the surface of the ground. Basements are allowed, but Lot Owners are responsible to mitigate and allow for the existing water table.

#### **IV. CONFLICTS**

Zoning ordinances, building codes, regulations and any other governmental restrictions and requirements shall be observed. In the event of any conflict between this Declaration and any such governmental codes, regulations, restrictions and requirements, the more restrictive standards shall apply. Any approval of Grantor required in this Declaration does not in any way relieve Owners and Occupants from obtaining approvals required by any governmental body having jurisdiction.

#### **V. LANE MAINTENANCE AGREEMENT**

1. **Purpose.** The establishment of the Lane Maintenance Agreement is for the express purpose of operating, maintaining, and funding the continual operation of the private lane referred to as "Sainsbury Court" located at 12995 South Fort Street, Draper, Salt Lake County, Utah 94020 ("Lane"). As a private lane, the City of Draper is not responsible for the use, maintenance or operation of this Lane and is therefore the responsibility of the Owners of the five lots within the subdivision. This Agreement is set out to detail the structure of the mandatory and binding requirement on every Lot owner in the subdivision to participate in the maintenance, operation and upkeep of the Lane and the payment of its respective (1/5) share of the costs incurred in doing so.

**2. Maintenance, Snow Removal, Landscaping and Property Tax Payments.**

All Lot Owners shall the responsibility of maintaining the Lane , removing the snow, landscaping of the right of way not paved and the payments of property taxes, if assessed. Each Owner of a Lot shall be equally responsible for the (1/5) payment of all costs incurred in the fulfillment of the functions listed above, regardless of the size of the Lot or the linear distance of the Lane to the Lot.

**3. Operational Meeting and Function and Assessment.** During the second week of September of each year, the Owners of the (5) Lots shall meet together (or at another mutually agreeable time as determined by the majority of the Lot owners) and shall by majority vote, select a Chairman and determine the maintenance needs of the Lane, landscaping, snow removal and tax assessments, if any. All Lot owners shall have (1) vote for each Lot and shall by a majority vote determine the amount of the total expenses for completing the purposes outlined above and assess each Lot Owner (1/5) of the total expenses. All assessments are to be paid within (45) days of the date agreed upon for payment by majority vote. The Chairman shall be responsible to facilitate the maintenance, snow removal, landscaping and payment of taxes.

**4. Assessments.** Each Owner shall, by acquiring or in any way becoming vested with an interest in a Lot, be deemed to covenant and agree to pay assessments set out above.

**5. Quorum Requirements.** The quorum required for any action authorized by this Agreement shall be that a minimum of (3) Lot Owners are present at the annual meeting and where ever there is voting on the assessment to be made to Lot Owners.

**6. Effect of Nonpayment - Remedies.** Regardless of the terms of any agreement to



the contrary, the liability of the Members for the payment of any assessment relating to such Lot or parcel shall be joint and several, and any remedy for the collection of such assessment may be enforced against any or all Owners of the Lot or parcel concerned; provided, however, that the personal obligation of an Owner to pay assessments shall not pass to his successors in title unless assumed by them. If any assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum (or, in the event such rate at any time exceeds the maximum legal limit, interest shall accrue at such maximum legal rate) and the Owners may bring an action either against any or all Members who are personally liable thereof and/or file a lien against the Lot and to foreclose the lien against the Lot or parcel, provided, however, that the Owners shall give the Owner(s) concerned twenty (30) days advance written notice of its intent to pursue one or more of its remedies hereunder. Any relief obtained by the Owners (whether or not through judicial action) shall include reasonable attorney's fees, court costs, and each and every other expense incurred by the Owners in enforcing their rights.

## **VI. NOTICE TO BE GIVEN BY OWNERS**

Any Owner of a Lot within the Property, who shall transfer to another entity, whether such entity be an individual, corporation, joint venture, partnership, limited liability company, association or other entity, any title, interest in or right of occupancy to such Lot, shall give actual written notice of the existence of this Declaration of Covenants,

Conditions and Restrictions to such entity.

## **VII. ENFORCEMENT**

Enforcement of the provisions of this Declaration shall be by any appropriate proceeding at law or in equity against any owner, occupant, person, corporation or other entity violating or attempting to violate said provisions, either to restrain such violation, to enforce liability, or to recover damages, or by any appropriate proceeding at law or in equity against the Property, or any portion thereof, to enforce any lien of charge arising by virtue hereof. Grantor shall not be liable for enforcement of, or for failure to enforce, said provisions, and failure of Grantor or of any Owner or Occupant to enforce any of the provisions of the Declaration shall in no event be deemed a waiver of the right to do so thereafter.

## **VIII. MORTGAGES -DEEDS OF TRUST**

Breach of any of the provisions of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value within the Property, but this Declaration shall be binding upon and effective against any Owner of the Property, or any portion thereof, whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

## **IX. DURATION, MODIFICATION AND TERMINATION**

1. **Duration.** The easements, covenants, conditions, restrictions, reservations, charges, and liens set forth in this Declaration shall run with and bind the land within the Property, and shall be and remain in effect, and shall inure to the benefit of, and be enforceable by Grantor and/or the Owner of any Property subject to this Declaration, their

heirs, successors, and assigns and the owner of Parcel No. 28-32-178-028-0000 for a term of twenty (20) years from the date this Declaration is recorded, after which time the term of this Declaration shall be automatically extended for successive periods of ten (10) years, to a maximum of (99) years unless terminated at the end of any such period by a unanimous vote of the Owners as set forth below.

2. **Modifications.** Any modification of the development guidelines, termination of this Declaration or amendments of this Declaration shall take place only by the unanimous affirmative vote of the Lot Owners.

3. **No Severance of Right From Ownership of a Lot.** No purchaser or Owner of any Lot shall convey his interest under this Declaration separate from the conveyance of a Lot.

4. **Interpretation.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which the provisions hereof are construed. Whenever the context so requires, the singular shall include the plural and the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder of this Declaration and this declaration shall be liberally construed to effect all of its purposes.

5. **Law Governing.** This agreement shall be governed by and construed in accordance with the laws of the State of Utah.

**X . SEVERABILITY**

Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed by its duly authorized officer on the date first above written.

SAINSBURY-SIMMONS I, LLC,  
a Utah Limited Liability Company

*Hollis S. Hunt*  
Hollis S. Hunt, President of Sainsbury-Simmons LTD, Inc., Manager of Sainsbury-Simmons I, LLC

State of Utah :  
: ss.  
County of Salt Lake :

On the 2nd day of July 2014, personally appeared before me, Hollis S. Hunt, who being by me duly sworn, did say and acknowledge that he is the President of the Manager of Sainsbury-Simmons I, L.L.C., a Utah Limited Liability Company, and that the foregoing Declaration was signed in behalf of said Limited Liability Company.



By: *Angelia J Olsen*  
Notary Public  
My Commission Expires:

Sainsbury-Simmons I Subdivision  
CC&R's  
June 2, 2014

EXHIBIT "A"

Order Number: 12751A

Escrow Officer: at

**Exhibit "A"**

**Subdivision Description**

Commencing at the corner common with Sections 28, 29, 32 and 33, Township 3 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 00 deg. 21'06" West, along the line common with Section 32 and 33, a distance of 2681.47 feet, to the quarter corner common with Section 32 and 33; thence North 89 deg. 14'19" West, a distance of 2921.31 feet, to the point of beginning for this description; said point being a 4" diameter pipe fenced corner post in concrete as shown on the recorded plat of Simper Subdivision; thence North 87 deg. 20'32" West, along a certain Boundary Line Agreement recorded July 11, 1994, as Entry No. 5870679, in Book 6978, at Pages 934 through 936, a distance of 404.34 feet; thence North 06 deg. 00'42" East, along the Easterly line of Fort Street (66.00 feet wide) a distance of 231.14 feet; thence South 86 deg. 38'18" East, along that certain Boundary Line Agreement recorded January 11, 2002, as Entry No. 8118443, in Book 8553, at Pages 4504 through 4508, a distance of 222.06 feet; thence North 05 deg. 05'13" East, along that certain Boundary Line Agreement recorded January 11, 2002, as Entry No. 8118443, in Book 8553, at Pages 4504 through 4508, a distance of 114.94 feet; thence South 88 deg. 05'53" East along that certain Boundary Line Agreement recorded January 11, 2002, as Entry No. 8228442, in Book 8553, at Pages 4499 through 4503, a distance of 101.16 feet; thence North 02 deg. 37'04" East, along that certain Boundary Line agreement recorded January 11, 2002, as Entry No. 8118443, in Book 8553, at Pages 4504 through 4508, a distance of 21.87 feet; thence South 88 deg. 17'53" East, along that certain Boundary Line Agreement recorded January 11, 2002, as Entry No. 8118443, in Book 8553, at Pages 4504 through 4508, a distance of 268.19 feet; thence South 01 deg. 12'54" West, along the West line of Royal Ivory Acres Subdivision, a distance of 275.08 feet; thence North 84 deg. 14'21" West, a distance of 155.51 feet; thence South 31 deg. 22'52" West, a distance of 118.67 feet, to the point of beginning.