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RASHELLE HOBBS
Recorder, Salt Lake County, UT
ARTISAN TITLE
BY: eCASH, DEPUTY - EF 10 P.

WHEN RECORDED, MAIL TO:
Villas at Millcreek, LLC
c/o Gregg Christensen

6340 South 3000 E. Suite 500
Salt Lake City, UT 84121

AFFECTING PARCELS:
16283130230000
16294280160000

LICENSE AGREEMENT

This License Agreement (this "**Agreement**") is made as of this 16th day of May, 2019 (the "**Effective Date**"), by and between VILLAS AT MILLCREEK, LLC ("**Villas**" or the "**Development Owner**"), for itself and for its successors in interest, and BRICKCREEK, LLC ("**Brickcreek**" or the "**Licensed Area Owner**"), for itself and for its successors-in-interest.

RECITALS

WHEREAS, Brickcreek is the record owner of certain real property located at 3098 South Highland Drive, Millcreek, Utah 84106, identified as Parcel No. 16283130230000, which is the common area for Highland Park Plaza II (the "**Common Area**"), as more fully described on **Exhibit A**; and

WHEREAS, Villas wishes to access, landscape and maintain a certain portion of the Common Area for the benefit of its adjoining multi-family housing development (the "**Development**"), at 3092 South Highland Drive, Millcreek, UT 84106, identified as Parcel No. 16294280160000, as more fully described on **Exhibit B**, in accordance with the terms of this Agreement; and

WHEREAS, Brickcreek desires to grant Villas a license to access, landscape and maintain a certain portion of the Common Area in accordance with the terms of this Agreement;

NOW THEREFORE, based upon the foregoing recitals, which are hereby incorporated into this Agreement, Villas and Brickcreek declare as follows:

AGREEMENT

1. **LICENSE**. For the value of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Brickcreek hereby grants to Villas a non-exclusive, revocable license (the "**License**") for pedestrian access, landscaping and maintenance of a portion of the Common Area (the "**Licensed Area**") for the benefit of the Development. The Licensed Area is more particularly described on **Exhibit C** hereto.

2. **COVENANT WITH RESPECT TO LICENSE.** The following terms and provisions shall govern the respective rights and obligations of the Licensed Area Owner and the Development Owner (each an “Owner”) and their successors-in-interest with respect to the License:

a. **Approval of Landscaping.** All landscaping shall be subject to approval by Brickcreek, in its sole discretion.

b. **No Barriers or Interference.**

i. Except as provided in Section 2(b)(ii), no Owner shall construct, place, or permit to be constructed or placed within the Licensed Area or Common Area any fences, curbs, barriers, or other improvements or obstacles that prevent, obstruct, or impede the passage of pedestrians within or across the Licensed Area.

ii. Brickcreek, its successors-in-interest or assigns, shall have the right to close off and prohibit access to the Common Area at least one time each year for a period of 24 hours in order to avoid the creation of a prescriptive easement over the Common Area.

c. **Use of Licensed Area.** Each Owner may authorize their respective invitees, contractors, vendors, or employees to use the Licensed Area for the purposes, and subject to the limitations, stated herein; provided, that, the Owner authorizing such persons to use the Licensed Area shall be responsible for causing such persons to use the Licensed Area in accordance with the terms, provisions, and limitations set forth in this Agreement.

d. **Removal of Debris.** Each Owner shall be responsible for the removal from the Licensed Area of any building materials, trash, or other debris resulting from the construction, improvements or other work performed on that Owner’s property

e. **Maintenance of Licensed Area.** The Development Owner shall be responsible for, and shall have control of, the routine maintenance and repair of the Licensed Area incident to normal wear and tear, which shall include snow removal, installation and maintenance of landscaping, maintenance, repair, and replacement of any asphalt, concrete, storm drainage improvements, and lighting improvements, if any.

f. **Repair of Damages to Licensed Area.**

i. Any damages caused to the Licensed Area other than normal wear and tear, such as damages caused as a result of, or in connection with any construction, improvements or other work requested by an Owner of either the Licensed Area or the Development, or other damages caused by an Owner or any invitee, contractor, vendor, or employee of an Owner, shall be the sole responsibility of that Owner (the “Responsible Owner”), who shall cause repairs to be made within thirty (30) days of the completion of any construction, improvements or other works, or within thirty (30) days of notice by the other Owner of such damages, whichever is later.

ii. If the repairs to the Licensed Area cannot reasonably be completed within the time frame required under Subsection 2(f)(i), the Responsible Owner shall (a) promptly provide written notice to the other Owner of the facts requiring an extension of the timeframe required Subsection 2(f)(i); (b) simultaneously with that written notice provide a new schedule for the completion of repairs; and, (c) commence repairs within thirty (30) days of the completion of any construction, improvements or other works, or within thirty (30) days of notice by the other Owner of such damages, whichever is later.

iii. If the Responsible Owner fails to make repairs to the Licensed Area as required under Subsections 2(f)(i) or 2(f)(ii), the other Owner (“**Repairing Owner**”) may obtain an estimate or estimates for necessary repairs and submit any such estimate(s) to the Responsible Owner. If the Responsible Owner does not cause repairs to be made within thirty (30) days of receipt of the estimate(s), the Repairing Owner may undertake the repairs and submit any invoice(s) for costs so incurred to the Responsible Owner for reimbursement. The Responsible Owner shall reimburse the Repairing Owner such costs within thirty (30) days of receipt of the invoice(s).

g. **Real Property Taxes and Assessments.** The Licensed Area Owner shall be solely responsible for timely paying all of the real property taxes or other assessments attributable to the Common Area, including the Licensed Area.

3. COVENANTS RUN WITH LAND.

a. **Run with Land.** This Agreement, the License granted hereby, and all of the provisions contained herein shall be covenants running with the real properties described herein, shall be enforceable against all present and subsequent Owners or tenants thereof, and shall:

- i. constitute a license appurtenant to, and made for the direct benefit of, the Owners’ properties described herein;
- ii. create equitable servitudes upon the Licensed Area as provided herein; and
- iii. constitute covenants that run with the land, which covenants shall bind and benefit the Owners, respectively, and any other Owner which at any time acquires fee simple, leasehold, or any other interest in all or any portion of the subject properties and their respective successors, in interest, as contemplated by this Agreement.

b. **Modification.** This Agreement, the License granted hereby, and all provisions contained herein may only be amended by written agreement between the Owners, their successors, or their assigns. Any agreement to modify the License granted herein shall be recorded in the Salt Lake County Recorder’s Office.

c. **Revocation.** This Agreement and the License granted hereby shall be revocable by Brickcreek upon six (6) months' prior written notice to Villas at the address provided herein, or at such other address as Villas may designate in writing. A notice of the revocation shall be recorded in the Salt Lake County Recorder's Office.

4. **NOT A PUBLIC DEDICATION.** Nothing contained in this Agreement will be deemed to be a gift or dedication of any portion of the Common Area to the general public, it being the intention of the Owners that this Agreement will be strictly limited to the purposes expressed herein. The Licensed Area shall remain at all times the private property of the Owner of the Common Area.
5. **INDEMNITY.** The Owners and their successors in interest, and the public shall use the Licensed Area at their own risk and each Owner shall defend, indemnify, and hold the other, their successors in interest, parents, subsidiaries, and affiliated entities harmless from any and all claims, damages, injuries, or losses to the extent arising from or caused by use, maintenance or occupancy of the Licensed Area by that Owner or its invitees, contractors, vendors, or employees.
6. **NOTICES.** All notices and other communications provided for in this Agreement shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by certified or registered U.S. mail, return receipt requested, postage prepaid, and addressed to the respective Owners at such address as they shall designate in writing.

- a. **Notice Addresses:** The current addresses of the Owners for Notices are:

Villas at Millcreek, LLC
c/o Gregg Christensen
6340 S. 3000 E. Suite 500
Salt Lake City, UT 84121

Brickcreek, LLC
c/o Cameron Gunter
180 N. University Avenue, #200
Provo, UT 84601

b. **Delivery.** If personally delivered, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective immediately upon delivery. If sent by mail in the form specified above, notices and other communications shall be deemed to have been given and received and shall be effective three (3) days after deposit in the U.S. Mail.

7. **MISCELLANEOUS.**

a. **No Waiver.** Any Owner's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The

provisions may be waived only in writing by the Owner intended to be benefited by the provisions, and a waiver by an Owner of a breach hereunder by any other Owner shall not be construed as a waiver of any succeeding breach of the same or other provisions.

b. **Enforcement.** In the event of a breach hereunder, the breaching Owner agrees to pay reasonable attorney's fees and costs incurred by the non-breaching Owner incurred in connection with enforcing this Agreement or securing any remedy available hereunder, whether or not any litigation is commenced. If litigation is commenced either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Owner shall be entitled to reasonable attorney's fees or court costs.

c. **Governing Law.** The laws of the State of Utah shall govern the interpretation and enforcement of this Agreement.

d. **Headings.** The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any provision this Agreement.

e. **Severability.** If any of the provisions of this Agreement are declared void or unenforceable, such provision shall be severed from this Agreement. This Agreement shall otherwise remain in full force and effect provided the fundamental purpose of this Agreement and the Parties' ability to complete the development of the Improvements as set forth herein is not defeated by such severance.

f. **Binding Effect.** The benefits and burdens of this Agreement shall be binding upon and shall inure to the benefit of the Owners and their respective heirs, legal representatives, successors in interest and assigns.

g. **No Third-Party Rights.** The obligations of the Owners set forth in this Agreement shall not create any rights in or obligations to any other persons or parties except to the extent otherwise provided herein. Further, this License shall not be the basis for a claim of an easement to the Common Area by any individual or entity.

h. **No Agency Created.** Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the Parties.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

VILLASVILLAS AT MILLCREEK, LLC

By: [Signature]
Gregg Christensen
Chief Legal Officer

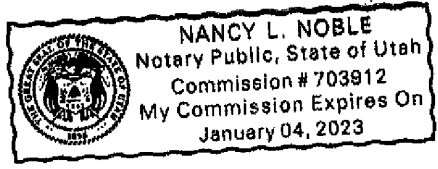
BRICKCREEK, LLC

By: [Signature]
Cameron Gunter
Manager

ACKNOWLEDGEMENT

State of UTAH)
County of SALT LAKE)

On this 15th day of May, 2019, before me personally appeared Gregg Christensen, the President of VillasVillas at Millcreek, LLC, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he signed this instrument on behalf of VillasVillas at Millcreek, LLC.

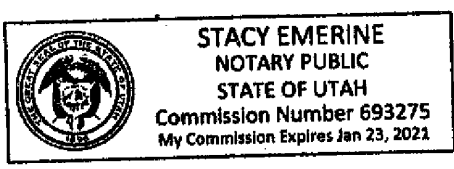


[Signature]
Notary Public

ACKNOWLEDGEMENT

State of Utah)
County of Utah)

On this 13th day of May, 2019, before me personally appeared Cameron Gunter, the President of Brickcreek, LLC, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he signed this instrument on behalf of Brickcreek, LLC.



[Signature]

EXHIBIT A

Legal Description of Common Area

BEG E 174.73 FT S 15°18'00" E 159.35 FT FR W 1/4 COR OF SEC 28, T1S, R1E, SLM; S 15°18'00" E 90 FT; S 88°30'00" W 146.52 FT; S 00°49'38" E 172.96 FT; N 87°15'00" W 200.66 FT; N 158.34 FT; S 88°30'00" W 156.19 FT; N 87.43 FT; N 88°30'00" E 477.04 FT TO BEG. 1.74 AC M OR L. LESS SUITES. (BEING THE COMMON AREA FOR HIGHLAND PARK PLAZA II CONDO).

Parcel No. 16283130230000

EXHIBIT B

Legal Description of Development

BEG S 17 FT & W 104.00 FT FR NE COR OF SE 1/4 OF SEC 29, T1S, R1E, SLM; S 145.12 FT; S 88°30' W 158.53 FT; S 87.22 FT; S 88°30' W 302.52 FT; N 17.44 FT; S 88°30' W 4.40 FT; NWLY ALG A 1106.28 FT RADIUS CURVE TO R (CHD N 6°30'43" W 245.67 FT) 246.18; E 32.26 FT; S 17.00 FT; E 460.90 FT TO BEG.

Parcel No. 16294280160000

EXHIBIT C

Legal Description of Licensed Area

A part of the Common Area West of the Parking Structure of Highland Park Plaza II within the Southeast Quarter of Section 29, Township 1 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey in Salt Lake County, Utah:

Beginning at the Northwest Corner of said Condominiums as it exists on the ground located 159.40 feet South $0^{\circ}10'25''$ West; and 262.57 feet South $88^{\circ}40'25''$ West along the North Line of said Condominiums from the East Quarter Corner of said Section 29; and running thence North $88^{\circ}40'25''$ East 10.27 feet along said North Line to the Northwest Corner of said Parking Structure; thence South $1^{\circ}27'48''$ East 87.19 feet along the West Line of said Structure and the extension of said Line; thence South $88^{\circ}40'25''$ West 12.77 feet to an angle point in a Common Boundary Line on the West Line of said Condominiums; thence North $0^{\circ}10'25''$ East 87.22 feet along said West Line to the point of beginning.