

When Recorded Return To:
The Haven at Heritage Acres, LLC.
 2252 S. Redstone Rd.
 Hurricane, UT. 84737

Restrictive Page 1 of 11
 Russell Shirts Washington County Recorder
 02/15/2019 09:25:07 AM Fee \$ 30.00
 BY SOUTHERN UTAH TITLE CO.

APN #: I-SB-59



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE HAVEN AT HERITAGE ACRES RESIDENTIAL SUBDIVISION

This Declaration of Covenants, Conditions, and Restrictions is made on the date set forth below by
THE HAVEN AT HERITAGE ACRES, LLC. ("Declarant").

DECLARATION, INTENT, AND BINDING EFFECT

Declarant owns certain real property in Washington County, Utah, that is more particularly described on Exhibit "A," which is attached hereto and incorporated herein by this reference. Declarant desires and intends to protect the value and desirability of the Property as a harmonious and attractive residential subdivision. Therefore, Declarant hereby declares that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, and restrictions, and to the Plat recorded concurrently. The covenants, conditions, and restrictions in this Declaration and the Plat shall be construed as covenants of equitable servitude; shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns; and shall inure to the benefit of each Owner thereof.

ARTICLE 1 DEFINITIONS

The following definitions and concepts shall control in this Declaration. Any terms used in this Declaration that are not defined shall have their plain and ordinary meaning.

1.1 "Additional Property" means and refers to any real property which is adjacent or contiguous to, or otherwise within the vicinity of the Property, whether or not so described herein or on the Plat. When Additional Property is annexed to this Declaration, it shall become part of the Property.

1.2 "Declarant" means **THE HAVEN AT HERITAGE ACRES, LLC.**, and its successors and assigns.

1.3 "Declaration" means this instrument and any amendments, restatements, supplements, or annexations thereto, which are recorded in the office of the Washington County Recorder.

1.4 "Declarant Control Period" means the period of time until (a) Declarant relinquishes in writing its powers as Declarant and declares an end to the Declarant Control Period; or (b) 100% of the Lots on the Property are sold.

1.5 "Development Agreement" means that certain agreement between **THE HAVEN AT HERITAGE AGRES, LLC.**, and Ivins City, which is recorded with the Officer of the Recorder of Washington County and which shall govern certain development activities within the Property.

1.6 "Lot" means a separately numbered and individually described plot of land shown on the Plat and designated as a Lot for private ownership.

1.7 "Lot Owner" means and is synonymous with the term "Owner".

1.8 "Owner" means the entity, person, or group of persons owning fee simple title to any Lot which is within the Property.

1.9 **"Plat"** means the subdivision Plat recorded herewith prepared and certified by a Utah Registered Land Surveyor, and any amendments or replacements thereof, or additions thereto.

1.10 **"Property"** means that certain real property herein described, and such annexations and additions thereto as may hereafter be subjected to this Declaration.

1.11 **"Subdivision"** is synonymous with the term Property.

ARTICLE 2 **LAND USE**

2.1 **Owners' Acknowledgment and Notice to Purchasers.** All Owners are served notice hereby that use of their Lot is limited by the Declaration. Each Owner, by acceptance of a deed to his or her Lot, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot may be affected by the Declaration, and the Declaration may change from time to time. The current Declaration, and any other pertinent document affecting the Property shall be on record at the office of the Washington County Recorder.

2.2 **Residential Use.** All Lots, and the homes constructed thereon, shall be used only for single family residential purposes. Lot sizes as described on the Plat are considered minimum Lot sizes and no person shall further subdivide any Lot other than as shown on the Plat. No noxious or offensive activity shall be carried on upon any Lot, part or portion of the Property, nor shall anything be done thereon which may be or may become an annoyance to the Subdivision.

2.3 **Care and Maintenance of Lots.** Without limiting any other provision of this Declaration, each Owner shall maintain and keep their Lot, and any improvements thereon in a safe, sound, and sanitary condition, and shall correct any condition or refrain from any activity that might endanger the health of or interfere with the safety or reasonable enjoyment of other Owners of their respective Lots. Each Owner shall keep their Lot free from rubbish, litter, and noxious weeds. All structures, landscaping, and improvements shall be maintained in good condition and repair at all times. No activities shall be conducted on the Property, and no improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property.

2.4 **Pest Control.** No Owner shall permit any thing or condition to exist upon his Lot which would induce, breed, or harbor infectious plant diseases, noxious insects or other pests. Each Owner shall perform such pest control activities on his Lot as may be necessary to prevent insects, rodents, and other pests from being present on his Lot.

2.5 **Vehicle Repair.** No automobile, recreational vehicle, commercial vehicle, other motorized vehicle, or any portion thereof, shall be dismantled, rebuilt, serviced, repaired or repainted unless performed in the rear portion of the lot within a garage or similar structure which screens the sight and sound of such activity from streets and neighboring lots. No such repair or service work shall be performed on streets or in the front or side setback areas of any Lot.

2.6 Boats, Recreational and Motor Vehicles. No boats, motorcycles, trailers, buses, motorhomes, campers or other vehicles shall be stored upon any Lot except in the side or back yard area and must be kept behind a privacy gate and / or wall. Except temporarily for the purposes of loading, unloading, etc., no such vehicle shall be parked on the driveway or elsewhere in the front setback area of a Lot, nor on any street located within the Subdivision. All such vehicles shall be properly registered and licensed, and meet such other governmental approval as may be required.

2.7 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, part or portion of the Property, nor shall any oil well, gas well, tank, tunnel, mineral excavation or shaft be permitted upon or in any such Lot or portion of the Property.

2.8 Garbage and Refuse Disposal. No Lot or part or portion of the Property shall be used or maintained as a dumping ground for rubbish, rubble, trash, garbage or other waste. Trash or other waste produced within the Property shall be kept in sanitary containers and stored in a location away from the front of the dwelling except when placed for collection. No trash or other waste shall be burned upon the Property. Notwithstanding the foregoing, composting of organic matter is allowed.

2.9 Sewage Disposal. Each home shall be connected to and use the public sewage disposal system. No individual sewage disposal system shall be permitted on any Lot, part or portion of the Property.

2.10 Household Pets and Livestock. Dogs, cats or other household pets, may be kept in Homes, subject to the Ivins City ordinance. While not in home, all household pets shall be on a leash and pet owner is solely responsible for the conduct and actions of the household pet(s). Owner shall not allow pet(s) to disturb the peace, quiet and enjoyment of the other Owners. Pet owners shall immediately clean up after their pets and shall not allow their pets to defecate or urinate on Lots belonging to others. No livestock or poultry of any kind may be raised, bred or kept on any Lot, and no household pets shall be bred on the premises of any commercial venture.

ARTICLE 3 **ARCHITECTURAL STANDARDS**

3.1 Prohibited Structures. The following structures are prohibited: dome structures, log homes, pre-manufactured homes; earth or berm homes; and re-located homes. No structure of a temporary nature, including, but not limited to a trailer, bus, basement-only dwelling, motor home, tent, shack, garage, shed, or other outbuilding shall be used at any time as a residence either temporarily or permanently.

3.2 Minimum Home Size. The total living area of any residence constructed on a Lot within the Subdivision shall be no less than 1,500 square feet, exclusive of porches, decks, balconies, courtyards, patios, garages, and detached quarters or casitas. Two-story residences with a minimum of 900 square feet of living area on the second level shall have no less than a total of 1,650 square feet of living area, exclusive of porches, decks, balconies, courtyards, patios, garages, and detached quarters or casitas.

Guest quarters, casitas or similar accessory structures are exempt from this provision.

3.3 Building Height. No residence shall exceed the maximum height permitted by Ivins City ordinance. All two-story residences must be approved in advance by Declarant.

3.4 Exterior Building Materials. Exterior walls shall be of new materials, limited to the following: stucco, brick, stone, small accents of wood, or a combination thereof. Wood accents may consist of small amounts of wood or cementitious siding type materials as approved by the Declarant on a case by case basis. Without limiting the foregoing, metal and vinyl siding is explicitly prohibited. Aluminum soffit and fascia may be allowed on a case by case basis. All exterior building materials must be approved in advance by Declarant.

3.5 Roofing Materials. Roof material shall be limited to slate, clay, or concrete tiles. Asphalt shingles may not be used.

3.6 Garages. All residences constructed on a Lot in the Property shall include a fully enclosed, private garage, built to accommodate at least two (2) vehicles.

3.7 Colors. In order to complement the Property's natural surroundings, earth tones shall be used as the primary color of homes. The Declarant may approve color schemes on a case by case basis. Pastels or high gloss finishes are discouraged. Contrasting colors may be used as accent on fascia, window trim, shutters and doors. All reflective exterior surfaces or materials shall be colored or painted to match the material to which they are attached or from which they project. All colors must be approved by Declarant.

3.8 Accessory Buildings. No guest house, pool house, barn, shed, coop, hutch, workshop, garage or utility building shall be constructed or placed upon a Lot except as an accessory to a main residence. Any such outbuilding shall be of new construction and of complementary design to the main residence and, must be approved in advance by the Declarant.

3.9 Driveways and Walkways. There shall be area on the driveway, excluding sidewalk areas, to park not less than two (2) vehicles per Lot. The driveway shall be paved with concrete or pavers..

3.10 Sight Obstructions. No structure, fence, wall, hedge or shrub which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height to prevent obstruction of sight lines.

3.11 Walls, Fences and Other Barriers. Walls, fences and other barriers must utilize masonry blocks, rock, and/or metal, and shall be of new construction. Such walls must be maintained in good condition. No wall or fence shall be constructed in the front setback area. Walls may not exceed six

(6) feet in height and must comply with Ivins City ordinance.

3.12 External Illumination. Light(s) installed to illuminate garages, patios, parking areas or any other area of a Lot shall be directed away from neighboring Lots and the vision of passing motorists. Low-level outdoor illumination may be used for particular landscape features (e.g. trees, rock formations, etc.).

3.13 External Television, Other Antennas. A maximum of two (2) antennae or satellite dishes, two (2) feet or less in diameter, may be affixed to the exterior of a home or other structure, only if placement is as far from the street(s) view as possible.

3.14 Landscaping. Landscaping of the front of Lots must be completed prior to occupancy. The front of a lot is the area from the front corner of the home foundation to the street fronting the home. Landscaping shall be maintained at a reasonable standard compatible with other homes in the subdivision. Shrub and tree planting on corner Lots shall be located so as to not to create a hazard for the movement of vehicles along streets. No large trees or shrubs shall be planted on any corner. Landscaping shall be kept free of tall, noxious or offensive weeds.

3.15 Easements. Any easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat for each Lot. Within these easements no structure, planting or other material 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 of flow of drainage channels in the easements or which may impede ingress or egress. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

3.16 Solar Panels. Solar panels may be allowed on a case by case basis and must comply with Ivins City ordinance. If allowed, Declarant, in its sole discretion will determine size and installation placement.

ARTICLE 4 **CONSTRUCTION AND CONTRACTOR PROVISIONS**

4.1 Completion of Construction. The construction of any building on any portion of the Property shall be continuously and diligently pursued upon commencement of such construction.

4.2 Dust and Noise Control. The Lot owner and their contractor shall be responsible for controlling dust and noise from the construction site to a reasonable level, including the removal of dirt and mud that is the result of construction activity on the site. The volume of stereos, radios or any equipment must be maintained at a reasonable level that does not disturb the quiet peace and enjoyment of adjoining property owners and the surrounding neighborhood. If conflicts arise, the reasonable level shall be determined by the Declarant.

4.3 Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets,

concrete sidewalks, etc., by the owner and/or their agents must be repaired within thirty (30) days after such damage is discovered. Repair shall be at the expense of the Owner.

4.4 Maintenance of Lot During Construction. Contractors or subcontractors must provide on-site dumpsters during construction and are required to maintain a clean work site. Dumpsters must be emptied as often as necessary to maintain a clean work site. Dirt or mud from the construction site or elsewhere, dispersed, directly or indirectly, on the public streets within the Property must be cleaned up within twenty-four (24) hours by the contractor or subcontractor.

4.5 Concrete Trucks. Concrete trucks may be washed out only on the Lot being built upon and inside the construction area. The Owner and contractor are responsible for containing all washout to prevent this water from entering washes and contaminating tree roots.

4.6 Sanitary Facilities. Each Owner and contractor shall be responsible for providing and maintaining adequate sanitary facilities, including portable toilets for construction workers during construction.

4.7 Material Deliveries. All building materials, equipment and machinery required to construct a residence must be delivered to and remain within the Lot upon which the respective residence is being constructed, or be stored on a Lot that is owned by the Builder or Declarant. This includes all building materials, earth moving equipment, trailers, generators, mixers, cranes, and any other equipment or machinery. During construction, Declarant may, in its sole discretion, have materials delivered and stored on any owned Lot for the purpose of constructing a residence.

4.8 Prohibited Items. The accumulation of potentially flammable materials constituting a fire hazard on the construction site is prohibited.

4.9 Restoration of Property. Upon completion of construction, each owner and contractor shall repair any and all property that has been damaged.

4.10 Daily Operation. Daily working hours for a construction site shall be from thirty (30) minutes before sunrise to thirty (30) minutes after sunset. In the event of extreme hot or cold weather conditions, working hours may vary and are subject to Ivins City ordinance.

ARTICLE 5 **ENFORCEMENT**

5.1 Violations Deemed a Nuisance. Every violation of this Declaration is deemed a nuisance and is subject to all the remedies for abatement or correction established by this Declaration or by law.

5.2 Legal Action Authorized. The Declarant and any Lot Owner shall have the right to enforce, by any legal proceeding, all provisions of this Declaration against any person, persons, or entities violating or

attempting to violate any provision of this Declaration, to restrain or abate or otherwise recover damages for the violation, and against the land to enforce any charge or lien created by this Declaration.

5.3 Attorney Fees and Costs. The prevailing party in any action to enforce this Declaration or any rule or regulation established pursuant to the authority of this Declaration shall be entitled to an award of reasonable attorney fees, costs, and other litigation expenses incurred in such action.

ARTICLE 6 **DECLARANT PROVISIONS**

6.1 Application to Declarant. The Declarant shall be exempt from the provisions of this Declaration with respect to any of its activities on the Property.

6.2 Expansion of the Property. The Declarant shall have the right to expand the Property by unilaterally subjecting any Additional Property under Declarant ownership or control, in whole, in part, or in phases, to this Declaration during the Declarant Control Period. The Declarant shall indicate its intent to have such Additional Property bound by this Declaration on the plat of such Additional Property, and shall record a declaration of annexation or supplemental declaration including and subjecting such Additional Property to this Declaration. Thereafter, such Additional Property shall be considered as part of the Property in all respects, and lots therein shall constitute Lots under this Declaration.

6.3 Withdrawal of Property. So long as it has the right to expand the Property, Declarant shall have the right to remove any portion of the Property which has not yet been improved with structures from the coverage of this Declaration. The procedure for such withdrawal shall follow the procedure for expansion as provided in this Article.

6.4 Municipal Zoning and Subdivision Approvals. The Declarant, during the Declarant Control Period, shall have the unilateral right to further subdivide the Property and to apply for any zoning or subdivision approvals or permits from Ivins City or any other applicable governmental authority with respect to the Property or any adjacent property owned by Declarant, whether or not such adjacent property is annexed into the Subdivision. This right includes but is not limited to, applying for and obtaining zoning permits, subdivision approvals, plat approvals, or approvals to amend the Plat or any plats.

6.5 Assignment of Declarant's Rights. Any and all rights and powers of the Declarant contained in this Declaration and other Governing Documents may be delegated, transferred or assigned, in whole or in part, by the Declarant. To be effective, any such delegation, transfer, or assignment must be in writing, signed by Declarant, indicate the extent and nature of such assignment, and be recorded in the Office of the Washington County Recorder.

ARTICLE 7
FINAL PLAT GENERAL NOTES AND RESTRICTIONS

7.1 Easements. There exists a ten (10) foot public sidewalk, utility and drainage easement along all street side property lines, and a seven and one half (7.5) foot public utility and drainage easement along all side and back Lot Lines, or as drawn or otherwise noted.

7.2 Setbacks. Setbacks on all Lots are as follows unless otherwise noted: twenty-five (25) foot front yard setback; ten (10) foot side yard setback; ten (10) foot rear yard setback.

7.3 Geotechnical Report. A Geotechnical investigation was performed by AGEC, Inc. Project #2170519. The investigation results and specific recommendation for the construction of foundations, floor slabs and exterior flatwork are compiled in a report dated October 23, 2017. This report is available from the developer and a copy is on file with Ivins City. Owners, builders and contractors should become familiar with this report and comply with its recommendations.

ARTICLE 8
AMENDMENT

8.1 Amendment by Declarant. Until termination of the Declarant Control Period, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans to make, purchase, insure, or guarantee mortgage loans on any Lot; (d) to satisfy the requirements of any local, state, or federal governmental agency; or (e) to correct any typographical error.

8.2 Amendment by Owners During Declarant Control Period. No amendment made by the Lot Owners during the Declarant Control Period shall be effective unless the Declarant provides its prior express written consent to such amendment, which consent is within Declarant's sole and absolute discretion. Declarant's consent, to be effective, must be provided on the amendment and recorded in the Office of the Washington County Recorder.

8.3 Effective Date. Unless a later effective date is specified in the amendment, any amendment shall be immediately effective upon recording in the office of the Washington County Recorder a copy of such amendment. In the case of unilateral amendment by Declarant as provided for herein, such amendment shall be immediately effective upon recording in the office of the Washington County Recorder a copy of such amendment signed and verified by the Declarant.

ARTICLE 9
GENERAL PROVISIONS

9.1 Duration of Covenants. The covenants, conditions, and restrictions contained herein shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, subject to amendment as herein set forth.

9.2 Notices. Any notice required under the provisions of this Declaration to be sent to any Lot Owner shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Owner.

9.3 Dates and Times. In computing any period of time prescribed or allowed by the Governing Documents, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday (either federal or Utah state), in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday. The deadline of the last day of the period so computed shall be 5:00 P.M. Mountain Time.

9.4 Construction and Severability. All of the terms, provisions, covenants, conditions, and restrictions contained in this Declaration shall be construed together. Invalidation of any one of said terms, provisions, covenants, conditions, or restrictions, or any part thereof, shall not affect the enforceability or applicability any of the remaining terms, provisions, covenants, conditions, and restrictions, or parts thereof.

9.5 Interpretive Conflicts. In the event of any conflict between the provisions of any of the Governing Documents, the documents shall control in the following order of authority: (1) the Declaration; (2) the Design Code (if any); and (3) any rule, regulation, or resolution passed pursuant to the authority of the foregoing documents.

9.6 Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women and shall in all cases be assumed as though in each case fully expressed.

9.7 Waivers. No provision contained herein shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations that may occur.

9.8 Topical Headings. The topical headings contained herein are for convenience only and do not define, limit, or construe the contents of these covenants.

* * *

IN WITNESS WHEREOF, the undersigned has hereunto executed this Declaration this
13 day of February, 2019.

DECLARANT:

Seth R Foster
BY:

The Haven At Heritage Acres, LLC
OWNER:

STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

On this 13th day of February, 2019, before me
personal appeared Seth Foster whose identity is
personally known to or proved to me on the basis of satisfactory evidence, and who, being by
me duly sworn (or affirmed), did say that he is the declarant
of The Haven at Heritage Acres, LLC., a Utah corporation, and that the foregoing document was
signed by him on behalf of that corporation, he being duly authorized to do so.

Notary Public



EXHIBIT "A"

LEGAL DESCRIPTION

THE HAVEN AT HERITAGE ACRES

Commencing at the South $\frac{1}{4}$ Corner of Section 6, Township 42 South, Range 16 West, Salt Lake Base and Meridian; Thence North 00°41'20" East, along the Center Section line, a distance of 1670.74 feet to the Point of Beginning, Thence North 00°41'20" East, along said Center Section line, a distance of 982.32 feet, to the Center $\frac{1}{4}$ Corner of said Section 6; Thence South 89°06'37" East, along the East-West Center Section line, a distance of 672.42 feet; Thence South 00°38'46" West, a distance of 614.28 feet; Thence North 89°09'52" West, a distance of 143.88 feet; Thence North 00°50'08" East, a distance of 42.18 feet; Thence North 89°16'49" West, a distance of 340.19 feet; Thence South 00°41'21" West, a distance of 91.48 feet; Thence South 89°18'39" East, a distance of 4.50 feet, to the beginning of a non-tangent curve to the left, of which the radius point lies South 89°18'39" East, a radial distance of 15.00 feet, thence Southeasterly along the arc of said curve, through a central angle of 75°08'14", a distance of 19.67 feet; Thence South 00°43'01" West, a distance of 21.50 feet; Thence South 89°16'59" East, a distance of 3.88 feet; Thence South 00°43'01" West, a distance of 16.50 feet, to the beginning of a non-tangent curve to the left, of which the radius point lies South 00°43'01" West, a radial distance of 19.50 feet, thence Southwesterly along the arc of said curve, through a central angle of 90°01'40", a distance of 30.64 feet; Thence South 00°41'21" West, a distance of 183.00 feet; Thence South 89°18'39" East, a distance of 4.50 feet, to the beginning of a non-tangent curve to the left, of which the radius point lies South 89°18'39" East, a radial distance of 15.00 feet, thence Southeasterly along the arc of said curve, through a central angle of 75°08'14", a distance of 19.67 feet; Thence South 00°40'14" West, a distance of 43.00 feet, to the beginning of a non-tangent curve to the left, of which the radius point lies South 14°07'05" East, a radial distance of 15.00 feet, thence Southwesterly along the arc of said curve, through a central angle of 75°11'33", a distance of 19.69 feet; Thence North 89°15'50" West, a distance of 42.50 feet, to the beginning of a non-tangent curve to the left, of which the radius point lies North 89°18'39" West, a radial distance of 14.50 feet; thence Northwesterly along the arc of said curve, through a central angle of 89°58'20", a distance of 22.77 feet; Thence North 89°16'59" West, a distance of 87.88 feet, to the beginning of a non-tangent curve to the left, of which the radius point lies South 10°45'41" East, a radial distance of 25.00 feet, thence Southwesterly along the arc of said curve, through a central angle of 25°25'11", a distance of 11.09 feet; Thence North 89°18'40" West, a distance of 38.50 feet, to the Point of Beginning. (PROPOSED "THE HAVEN AT HERITAGE ACRES PHASE 1")

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