

29-14.

11899322  
08/19/2014 10:35 AM \$82.00  
Book - 10253 Pg - 8233-8261  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
JAMES R. BLAKESLEY  
2595 E 3300 S  
SLC UT 84109  
BY: TCA, DEPUTY - WI 29 P.

AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS  
OF  
QUAIL CROSSING ESTATE  
(A Planned Unit Development)

WHEN RECORDED RETURN TO:

James R. Blakesley  
Attorney at Law  
2595 East 3300 South  
Salt Lake City, Utah 84109  
(801) 485-1555

AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
QUAIL CROSSING ESTATE

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF QUAIL CROSSING ESTATE (the "Declaration") is made and executed this 12<sup>th</sup> day 1996, by QUAIL CROSSING ESTATES HOMEOWNERS' ASSOCIATION, a Utah nonprofit corporation with its principal place of business located at 1981 Covey View Court, Salt Lake City, Utah 84106, (hereinafter collectively referred to herein as "Declarant") and modified on June 26, 2014 by the Association.

RECITALS:

A. The DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF QUAIL CROSSING ESTATE was recorded in the office of the County Recorder of Salt Lake County, Utah on September 27, 1995, as Entry No. 6175981 in Book 7236 at Page 674 of the official records (the "Original Declaration").

B. A Subdivision Plat was recorded concurrently (the "Final Plat" or "Subdivision Plat" or "Recorded Plat" or "Plat").

C. QUAIL CROSSING ESTATES, INC. was the original Declarant (the "Original Declarant").

D. The QUAIL CROSSING ESTATES HOMEOWNERS' ASSOCIATION, which consists of all of the Lot Owners of the Property taken or acting as a group in accordance with the Declaration, is the managing agent for all of the Lot Owners.

E. The real property located in Salt Lake County, Utah subject to the Declaration is described with particularity on Exhibit "A," attached hereto and incorporated herein by this reference (the "Property").

F. All of the voting requirements to amend the Declaration have been satisfied.

G. All of the voting requirements to amend the Declaration have been satisfied.

H. Declarant desires to amend and restate the Declaration.

I. The lands comprising the Property are areas featuring unique and distinctive terrain.

J. By subjecting the Property to this Declaration, it is the desire, intent and purpose of Declarant to maintain a Subdivision in which the beauty of the land and the original design scheme shall be substantially preserved and which will enhance the desirability of living,

working and recreating at the Property, and increase and protect the utility, attractiveness, quality and value of the lands and improvements therein.

K. Declarant desires by filing this Declaration to resubmit the Property and all improvements now or hereafter constructed thereon to the amended and restated provisions, covenants, conditions, restrictions and easements set forth herein.

NOW, THEREFORE, for the reasons recited above and in consideration of the provisions set forth below, Declarant hereby covenants, agrees and declares pursuant to the request, for and in behalf, for the benefit and as the managing agent of all of the Lot Owners, that all of the Property described in Article II hereof shall be held, transferred, sold, conveyed, occupied and used subject to the following provisions, covenants, restrictions, conditions, and easements, hereinafter set forth.

### I. DEFINITIONS

1.1. Association shall mean and refer to the QUAIL CROSSING ESTATE HOMEOWNERS' ASSOCIATION, a Utah nonprofit corporation.

1.2. Board shall mean and refer to the Board of Trustees of the Association as duly elected in accordance with the terms and conditions of the Articles of Incorporation and the Bylaws of the Association.

1.3. Common Area shall mean and refer to that part of the Property which is not included with the Lots which is owned by the Association for the common use and enjoyment of the Owners, together with all improvements thereon and all easements appurtenant thereto including but not limited to private utility lines and fixtures and other personal property owned by the Association when the context so requires.

1.4. Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions.

1.5. Development shall at any point in time mean, refer to, and consist of the Subdivision then in existence.

1.6. Living Unit or Units shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on or with respect to the Lot concerned which are used in connection with such residence.

1.7. Lot shall mean the separately numbered and individually described plots of land described on a Plat: (a) which is intended to be owned individually, rather than by an association of Owners or in common by Owners of different lots; and (b) which is intended to be used as the site of a single Living Unit.

1.8. Member shall mean and refer to every person who holds a membership in the Association.

1.9. Mortgage shall mean any mortgage, deed of trust or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed or deed of trust.

1.10. Mortgagee shall mean any person named as a mortgagee of a mortgagee or beneficiary under or holder of a deed of trust.

1.11. Owner shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Salt Lake County, Utah) of a fee or an undivided interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust or like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.12. Parcel shall mean and refer to the Property which is subject to this Declaration, which is filed for record in the office of the County Recorder of Salt Lake County, Utah, is separately subjected to the terms of this Declaration with the intention that it shall thereby comprise the Development. The real property described in Article of this Declaration constitutes the Parcel.

1.13. Plat shall mean and refer to any subdivisions plat, any plat of a planned unit development, or any plat or map similar to any of the foregoing: (a) which covers the Property; (b) which describes or created one or more Lots; (c) on which or in an instrument recorded in conjunction therewith there is expressed the intent that the Subdivision created by the Plat shall compromise the Development; and (d) which is filed for record in the office of the County Recorder of Salt Lake County, Utah.

1.14. Private Streets shall mean and refer to all of the undedicated roads and streets within the Subdivision as designated upon a Plat which the Declarant has reserved as an easement for ingress or for the use, in common, of Members. Private Streets shall for all purposes be deemed to be Common Areas.

1.15. Property shall mean, and refer to all of the real property which is covered by a Plat.

1.16. Subdivision shall mean and refer to the entire residential development which is created and covered by a Plat.

## II. PROPERTY DESCRIPTION

2.1. Submission. The Property is hereby re-submitted to the Utah Community Association Act, Utah Code Ann., Sections 57-8a-101 et seq. (2004). The Property which is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration consists of the following described real property situated in Salt Lake County, State of Utah.

SEE THE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED HEREIN BY REFERENCE.

EXCLUDING all presently existing or to be constructed or installed sewer lines, water mains, gas lines, electrical conduits, telephone lines, and related facilities to the extent that they are located outside the Lots included with the above-described tract; provided, however, that lines and systems specifically conveyed to the Association by Declarant shall not be included within this exclusion.

RESERVING UNTO DECLARANT, however, such easements of ingress and egress over, across and through and under the above-described tract and any improvements now or hereafter constructed thereon as may be reasonable necessary for Declarant or any assignee of Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration); (i) to construct a Living Unit on each and every Lot; and (ii) to improve the Common Areas with such facilities; including, but not limited to, roads, recreational facilities, walkways and various landscaped areas, designed for the use and enjoyment of all the Members as Declarant may reasonably determine to be appropriate. If, pursuant to the foregoing reservation, the above-described tract 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, unless sooner terminated in accordance with its terms, expire seven (7) years after the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described tract or any portion thereof, including without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record.

### III. MEMBERSHIP

3.1. Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains.

3.2. Voting Rights. Members shall be entitled to one vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one vote exist with respect to any Lot.

3.3. Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the

event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

3.4. Record of Ownership. Every Owner shall promptly cause to be duly filed of record the conveyance document (or in the case of contract buyer, a copy of the sales contract) to him of his Lot. Each Owner shall file a copy of such conveyance document (or contract) with the secretary of the Association with a reinvestment fee in a sum to be determined by the Board of Trustees, who shall maintain a record of Ownership of the Lots. Any Owner who mortgages his Lot or any interest therein by a mortgage which has priority over the lien of any assessment provided herein shall notify the secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the secretary of the Association shall maintain all such information in the records of Ownership. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as a Reimbursement Assessment in accordance with the provisions of Section 5.5.

#### IV. PROPERTY RIGHTS IN COMMON AREAS

4.1. Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Common Areas and Private Streets. Such right and easement shall be appurtenant to and shall pass with the title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee or contract purchaser who resides on such Member's Lot.

4.2. Form for Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. \_\_\_\_\_, contained within the QUAIL CROSSING ESTATE Subdivision, as the same is identified in the Plat recorded in Book \_\_\_\_\_, at Page \_\_\_\_\_ of the official records of the Salt Lake County Recorder. TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas and Private Streets described and provided for in said Declaration of Covenants, Conditions, and Restrictions and in the Record of Survey Map of the Salt Lake County Recorder.

Whether or not the description employed in any such in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall insure to the benefit of any party who acquires any interest in a Lot.

4.3. Transfer of Title. The Original Declarant conveyed to the Association title to the various Common Areas free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities), as each such Common Area was completed.

4.4. Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas and Private Streets shall be subject to the following:

(a) The right of the Association to impose reasonable Limitations on the number of guests per Member who at any given time are permitted to use the Common Area;

(b) The right of the Architectural Control Committee to approve and designate the point of access from a Lot to the Private Streets in accordance with the requirements of Article VIII;

(c) The right of the County of Salt Lake and any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service; and

(d) The right of the Association to dedicate for all or any part of the Common Areas, the Private Streets and any sewer, water and storm drain trunk lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by (i) all holders of first Mortgages secured by Lots and (ii) by two-thirds (2/3) of the vote of each class of membership which Members present in person or by proxy are entitled to cast at a meeting duly called for that purpose written or printed notice setting forth the purpose of the meeting and the action proposes shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

## V. ASSESSMENTS

5.1. Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the monthly and special assessments described in this Article, together with the hereinafter provide for interest and costs of collection. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (b) the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights concerning the Common Areas or by abandonment of the Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payment fees, interest and costs of collection, including reasonable attorney fees, which shall be charged on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefor.

5.2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of residents of the Property, including but not limited to the appearance and aesthetics of the Development. The use made by the Association of funds obtained from assessments may include, but is not limited to, payment of the costs of taxes and insurance on the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements with the Common Areas; and any expenses necessary of desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation.

5.3. Monthly Assessments. As of the date set under Section 5.7, each Lot shall be subject to a monthly assessment. The monthly assessment will be calculated by the Board. At least annually the Board shall prepare and adopt a budget for the Association. The Board shall present the adopted budget to Association members at a meeting of the members. A budget is disapproved if within forty-five (45) days after the date of the meeting at which the Board presents the adopted budget:

(a) there is a vote of disapproval by at least 51% of all the allocated voting interests of the lot owners in the Association; and

(b) the vote is taken at a special meeting called for that purpose by lot owners under the declaration, articles, or bylaws.

If a budget is disapproved under Subsection (3), the budget that the Board last adopted that was not disapproved by members continues as the budget until and unless the Board presents another budget to members and that budget is not disapproved.

5.4. Special Assessments. From and after the date set under Section 5.7, the Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction or unexpectedly required repair or replacement in connection with the Common Areas. Any such special assessments must be assented to by not less than a sixty-seven percent (67%) supermajority of the Owners, subject to the voting regulations stipulated in Section 3.2, present in person or represented by proxy that are entitled to cast a vote at a meeting duly called for the purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least Ten (10) but not more than Thirty (30) days prior to the meeting date.

5.5. Reimbursement Assessment on Specific Lot. In addition to the monthly assessment and any special assessment authorized pursuant Section 5.3 and 5.4 above, the Board may levy at any time Special Assessments (a) on each Lot specifically benefitted by any improvements to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged; (b) on each Lot the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on each Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to Section 3.4, Section 6.1 (c), Section 6.2(a) or other provisions of this Declaration (all or part of the foregoing being



sometimes referred to as "Reimbursement Assessment"). The aggregate amount of any such Special Assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lots benefitted.

5.6. Uniform Rate of Assessment. Except as provided in Section 5.5 above, monthly and special assessments shall be fixed at a uniform rate for all Lots.

5.7. Monthly Assessment Due Dates. The monthly assessments provided for herein shall commence as to all Lots on the date a deed is delivered to the purchaser of a Lot, or if the sale is by way of a contract of sale, on the date the contract is executed by the parties thereto, or the date of occupancy agreement, or the date the Owner actually takes possession of the lot, whichever first occurs. The first monthly assessment shall be adjusted according to the number of days remaining in the month of conveyance, contract or occupancy as the case may be. Thereafter all monthly assessments shall be due and payable on the first day of each month. A monthly assessment not paid within ten (10) days of the due date thereof shall be deemed late and subject to a late fee of \$15.00. At least fifteen (15) days prior to the effective date of any change in the amount of the monthly assessment, the Association shall give each Owner written notice of the amount and the first due date of the assessment concerned.

5.8. Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

5.9. Effect of Non-Payment; Remedies. Any assessment not paid when due shall, together with the hereinafter provided for interest and cost of collection, constitute and remain a continuing lien on the affected Lot; provided, however, that any such lien will be subordinated to the lien or equivalent security interest of any first mortgage on the Lot recorded prior to the date any such assessments became due. If the assessment is not paid within sixty (60) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the Lot. Any judgment obtained by the Association shall include reasonable attorneys' fees, court costs, and each and every expense incurred by the Association in enforcing its rights.

5.10. Tax Collection by County Authorized. It is recognized that under the Declaration the Association will own the Common Areas and that it will be obligated to pay property taxes to Salt Lake City. It is further recognized that each Owner of a Lot a Member of the Association will be required to reimburse the Association for his pro rata share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration, Salt Lake County shall be

authorized to collect such pro rata share of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot.

## VI. DUTIES AND POWERS OF THE ASSOCIATION

6.1. Duties of the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration; the Association shall have the obligation and duty to do and perform each and every one following for the benefit, of the Owners and the maintenance and improvement of the Property:

- (a) The Association shall accept all Owners as members of the Association.
- (b) The Association has accepted title to all Common Areas conveyed to it by the Original Declarant.
- (c) The Association shall maintain, repair, and replace all landscaping and improvements in the Common Areas, including but not limited to the maintenance of all exterior trees, shrubs, grass, Private Streets and other Common Area improvements. Association shall have no obligation to perform any exterior maintenance and/or repair of any part of a Living Unit or any other landscaping installed by an Owner without the Associations' express agreement to maintain such landscaping. As provided in Section 7.13, each Owner shall have the obligation to provide exterior maintenance of his Living Unit including but not limited to painting, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, and landscaping installed by an Owner or his predecessor in title. Each Owner shall paint, repair, and otherwise maintain the exterior and interior of his Living Unit and shall maintain all mechanical devices, including but not limited to, appurtenant electrical, plumbing and heating, ventilating and air conditioning systems. In the event that the need for maintenance or repair of Common Areas as specified herein is caused through the willful or negligent act of an Owner, or through the willful or neglect acts of the family, guests or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair (and administrative expenses equal to ten (10%) percent of such costs) shall be added to and become part of the Reimbursement Assessment (as set forth in Section 5.5) to which such Lot is subject.
- (d) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.
- (e) The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.
- (f) The Association may employ a responsible corporation, partnership, firm, person or other entity as the Managing agent to manage and control the Common Areas, subject at all times to direction by the Board, with such administrative functions and powers as

shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be such as shall be specified by the Board. Any agreement appointing a Managing Agent shall be terminable by either party, with or without cause and without payment of any terminating fee, upon thirty (30) days written notice thereof; and the term of any such agreements may not exceed one year, renewable by agreement of the parties for successive one-year periods. Any Managing Agent may be an independent contractor and not an agent or employee of the Association.

6.2 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and its Bylaws, together with its general powers as a non-profit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments as hereinafter provided in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) The Association shall have the power and authority at any time, and without liability to any Owner for trespass, damage, or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of Article VII of this Declaration. The Association shall have the right to permit access to the Subdivision through any and all entrances, subject to governmental requirements, and to close all or any portion of a Private Street to such extent as may be legally sufficient to prevent a dedication thereof or the accrual of any right therein to any person or the public. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulation promulgated by the Board, or to enforce mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(b) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas (and exterior repairs of Living Units to the extent necessitated by the failure of the Owners of such Lots) or in exercising any of its right to construct, maintain and repair improvements or other work upon any of the Common Areas, and provided that any contract for any goods or services having a term or more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon no less than ninety (90) days written notice, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Common Areas on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or to otherwise provide for:

(i) Construction, maintenance, repair and landscaping of the Common Areas (and exterior repairs of Living Units upon Lots to the extent necessitated by the failure of Owners of such Lots) on such terms and conditions as the Board shall deem appropriate;

(ii) Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of Declarant, the Association, the members of the Board and the Owners;

(iii) Such utility service, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone and gas services, as the Board may from time to time deem desirable;

(iv) The services of architects, engineer, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;

(v) Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any of the Property; and

(vi) Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary.

(c) The Board may delegate by resolution or contract to the Managing Agent any of its powers under this declaration; provided, however, that the Board cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of One Thousand Dollars (\$1,000.00), nor the power to sell, convey, mortgage, or encumber any Common Areas.

6.3. Association Rules. The Board from time to time and subject to the provisions of this Declaration, may adopt, amend, repeal and enforce rules and regulations governing, among other things: (a) the use of the Common Areas; (b) the use of any roads or utility facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals on the Property; (e) rental rules for the use of Living Units for business or rental purposes, including by way of illustration but not limitation the restriction of the number of rentals to protect the equity of the individual property owners at the Project; carry out the purpose for which the Project was formed by preserving its character as a homogeneous residential community of predominantly owner-occupied Living Units and by preventing the Project from assuming the character of an apartment, renter-occupied complex, and comply with the eligibility, requirements for financing in the primary and secondary mortgage markets insofar as such criteria provide that the Project be substantially owner-occupied, and to satisfy the requirements of Utah Code Ann., Section 57-8a-209 (2009) as it may be amended or supplemented from time to time; (f) access to and use of the security gate, remotes, codes, etc.; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents. The Board may also adopt additional Architectural Guidelines for the construction of Living Unit Rules and Regulations and/or Architectural Guidelines adopted by the Board which may be enforced in accordance with the provisions of Section 7.18.

6.4. Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee or the Managing Agent.

6.5. Insurance. The Association shall secure and at all times maintain the following insurance coverage:

(a) Policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of all improvements comprising a part of the Common Areas, The name of the insured under each such policy shall be in form and substance similar to: "THE QUAIL CROSSING ESTATE HOMEOWNER'S ASSOCIATION for the use and benefit of the individual Lot Owners and Mortgagees, as their interests may appear".

(b) A Policy or policies insuring the Owners, the Association, and its Trustees, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall be not less than \$500,000 for all persons injured in any one accident; and \$100,000 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced.

The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance described above, the Association shall secure and all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property in construction, nature and use.

(2) All policies shall be written by a company holding a rating of "AA" or better from Best's Insurance Reports.

(3) The Association shall have the authority to adjust losses.

(4) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgages.

(5) Each policy of insurance obtained by the Association shall, if reasonably possible, provide waiver of the insurer's subrogation rights with respect to the Association, the Owner, and their respective Trustees, officers, agents, employees, invitees, and tenants; it cannot be canceled, suspended or invalidated due to the conduct of any particular Owner or Owners; that it cannot be canceled, suspended or invalidated due to the conduct of the Association or of any Trustee, officer, agent or employee of the

Association without a prior written demand that the defect be cured; and that any "no other insurance" clause therein shall not apply with respect to insurance held individually by Owners.

6.6. Quorum Requirements. The quorum required for any action by the Members hereunder, unless otherwise specifically set forth in this Declaration, shall be follows: At the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all outstanding votes shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

## VII. USE RESTRICTIONS

7.1. Use of Common Area. The Common Areas shall be used only in a manner constituent with their community nature and with the use restrictions applicable to Lots and Living Units.

7.2. Use of Lots and Living Units. All Lots are intended to be improved with Living Units and are restricted to such use. Except for uses allowed by the local "Home Occupation" ordinance, no gainful occupation, profession, trade or other non-residential use shall be conducted on any Lot or Living Unit. Each Living Unit shall be used only as a single-family residence. No Lot or Living Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.

7.3. Building Features and Materials.

(a) Building Location. Each building shall be located such that:

(i) The building shall be oriented as consented to by the Architectural Control Committee in accordance with the Provisions of Article VIII.

(ii) No dwelling shall be located nearer than 8 feet to any side yard boundary, 20 feet to any front yard street or 20 feet to any yard boundary; provided, however, that this side yard setback for any corner Lot shall be not less than 20 feet. Accessory buildings may not be located within 5 feet of a rear Lot line. No accessory building shall be closer than 5 feet to the side yard lot line of an adjoining Lot. The Architectural Control Committee shall have the right to modify the setback requirements set forth herein for unusual lot characteristics or situations encountered upon a lot provided, however, that each such Owner requesting a modification shall be solely responsible in obtaining any necessary consents and/or variances from applicable governmental authorities.

(iii) For the purposes of this covenant, eaves, steps and open porches shall not be considered as part of a building.

(b) Garages. Garages must be fully enclosed, accommodate a minimum of two cars, and be equipped with an automatic garage door opener. Carports are not acceptable substitution for garages.

(c) Exterior Building Wall Materials. Brick, cast concrete, stucco and wood are permitted for the exteriors of Living Units and accessory building; provided that not less than thirty percent (30%) of the area of each exterior wall surface (front, back and side walls) of a Living Unit shall be constructed of brick and/or cast concrete materials. The use of any other materials for such buildings shall require the prior approval of the Architectural Control Committee.

(d) Roof, Soffit and Facia. Roof, Soffit and Facia material shall be restricted to wood shingles or shakes, slate, tile thirty year or architectural grade asphalt, fiberglass or other materials approved by the Architectural Control Committee. The use and design of roof, soffit and facia materials is subject to the approval of the Architectural Control Committee. Facial and soffit colors shall be restricted to white, off white, or tan as approved by the Architectural Control Committee.

(e) Accessory Structures. Patio structures, trellises, sunshades, gazebos and any other appurtenant buildings shall be constructed of materials consistent with the colors, textures and materials approved for the dwelling and shall be integral to the architecture of the house and subject to the approval of the Architectural Control Committee.

(f) Chimneys. Chimneys of approved exterior materials may not exceed the height required by appropriate governmental agencies. Exposed metal flues are not acceptable; all chimneys shall be covered with a hood to hide the flue system.

(g) Mailboxes. Each Owner shall purchase, install (at an approved location) and maintain a mailbox as specified by the Architectural Control Committee.

(h) Fences and Walls. Subject to the exceptions set forth below and except as to fences installed by the Declarant, fencing shall be installed by each Lot Owner on rear and side yards and shall be constructed of a dark colored wrought iron, dark colored metal, wood or vinyl in accordance with the fence detail requirements set forth on Exhibit "B" attached hereto and incorporated herein by reference or such other materials as the Architectural Control Committee may approve expressly and in writing on a permanent or temporary basis.

Fences shall not extend past the front of any Living Unit. Six (6) foot high privacy enclosures (fences) shall be permitted on corner Lots on one side only and can be located within the front yard setback, but shall not be closer than 13 feet to the Lot line. Privacy enclosures shall be constructed and maintained in the same manner as other fencing.

All fences on a Lot shall be maintained by Owners in the condition originally installed by Original Declarant or, with respect to other fences, as required herein.

(i) Paving. Driveway and other flat, paved areas may be concrete, exposed aggregate concrete, stamped concrete, quarry tile, brick or paving blocks. Gravel areas are not permitted.

(j) Solar Equipment. Solar collectors, which must be integrated into roof design, geothermal products, wind turbines or other alternate energy resources must be approved in writing by the Architectural Committee.

(k) Antennas. All antennas are restricted to the attic or interior of the residence. It is mandatory that all homes be pre-wired for cable reception. Satellite dish antennas shall be allowed provided they are screened from view and their location is approved by the Architectural Control Committee.

(l) Skylights. Skylights are to be designed as an integral part of the roof. Skylight glazing may not be reflective. Skylight framing shall be colored to match adjacent roofing materials.

(m) Pools, Spas, Fountains, Gamecourts. Pools, spas, fountains and game courts shall be approved by the Architectural Control Committee and shall be located to avoid impacting adjacent properties with light or sound. No game court shall be located in front or side yards. Pool heaters and pumps must be screened from view and sound insulated from neighboring houses. Nothing herein shall be construed as permitting the construction of skateboard areas and/or ramps, which structures shall be prohibited.

(n) Sheet Metal, Flashing and Vents. All sheet metal, flashing vents and pipes must be colored to match the material to which they are attached or from which they project, with exception of copper.

(o) Mechanical Equipment. All air conditioning, heating equipment, swamp coolers and soft water tanks must be screened from view and insulated for sound attenuation. Air conditioning units and swamp coolers are not permitted on roofs or through windows unless screened from view and approved by the Architectural Control Committee.

(p) Gas and Electric Meters. Meter locations are to be designed into the architecture of the dwelling and screened from view.

(q) Landscape site Preparation Guidelines. All demolition, clearing, grubbing, stripping of soil, excavation, compaction and grading must be performed within the confines of a Lot.

(r) Site Grading and Drainage. Salt Lake County requires that water runoff in accordance with the approved QUAIL CROSSING ESTATE Subdivision Grading and



Drainage Plan submitted by the Declarant in connection with its application for subdivision approval. In the event that any Owner constructs a basement as part of a dwelling unit, such Owner shall be solely responsible for any and all drainage requirements necessitated by such construction or any damage or loss occasioned thereby.

(s) City and Other Approval. Approval of any improvements by the Architectural Control Committee does not waive the requirement for any other required public agency review or permit approval. By approving plans, the Architectural Control Committee takes no responsibility for plan conformity to any other criteria other than the requirements of this Declaration and any Architectural Guidelines.

(t) Metal Awnings. Metal awnings, metal "lean-tos" or metal patio covers shall not be permitted.

(u) Size and Height of Living Unit. Each Living Unit shall have a "foot print" of not less than: (i) 1200 square feet for two level structures with a total minimum square footage of 2200 square feet; or (ii) 1600 square feet for single level structures. The "foot print" requirements as set forth herein shall be exclusive of the square footage contained within garages. Each Living Unit shall not exceed the maximum height permitted by applicable building codes.

7.4. Landscaping and Common Area Improvements. Except for the construction of a Living Unit which is approved in accordance with the procedures set forth in Article VIII, each Owner shall be responsible for maintaining landscape on their respective lot(s). Any major changes to landscape require review by the Architectural Control Committee. The Association is responsible for maintaining landscape on the Common Areas. Any Owner or other resident within the Development who violates this Section shall be subject to such penalties or fines as the Board by resolution may provide.

7.5. Recreational Vehicles. No boats, trailers, large trucks and commercial vehicles belonging to Owners, residents or guests of the Property or their guests or invitees shall be parked on the roadways or Common Areas within the Development, except temporary parking not to exceed forty-eight (48) hours. No motor vehicle of any kind shall be repaired, constructed or reconstructed upon any Lot, Private Street or the Common Areas, except that these restrictions shall not apply to emergency repairs to vehicles.

7.6. Pets. No animals other than household pets shall be kept or allowed on any Lot, in any Living Unit, or within any part of the Common Areas. Whenever a pet is allowed to leave a Lot, it shall be kept on a leash or in a cage. No animals may be bred for commercial purposes. No pets shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance. The exterior structure for the care, housing or confinement of any such pets shall be maintained by Owner and approved by the Architectural Control Committee. Any Owner or other resident within the Development who violates this Section shall be subject to such penalties or fines as the Board by resolution may provide.

7.7. Common Areas. The Common Areas of the Development shall be improved and used only for the following purposes:

- (a) Vehicular and pedestrian access to and from the movement within the Development, and space for temporary Vehicular parking.
- (b) Recreational use by Owners and occupants of Living Units and their guests.
- (c) Beautification of the Development.
- (d) Privacy for the Owners and occupants of Living Units.
- (e) Such other uses as shall be determined from time to time by the Board for the benefit of members of the Association, following consultation with the Architectural Control Committee.

7.8. Insurance. No use shall be made of any Living Unit which shall cause the improvements within the Development or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspended, or cause any company issuing such insurance to refuse renewal thereof. Each Owner shall be responsible for securing insurance presently known as homeowners special form coverage (Form 3, or better). An Owner may be required to obtain flood insurance as condition to obtaining any financing covering any improvements upon a Lot.

7.9. Machinery and Equipment. No machinery or equipment of any kind shall be placed, used, operated or maintained in or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Living Unit or appurtenant structures.

7.10. Maintenance and Repair. No Living Unit, building, structure (including interiors thereof), or landscaping upon any Lot shall be permitted to fall into disrepair and, subject to the requirements herein as to approval by the Architectural Committee, each such building, structure, or landscaping at all times shall be kept in good condition and as appropriate, adequately painted or otherwise finished by its Owner. Such obligation shall extend, but shall not be limited to, the painting, repair, replacement and care of roofs, gutters, downspouts, and exterior building surfaces. Any Owner or other resident within the Development who violates this Section shall be subject to such penalties or fines as the Board by resolution may provide.

7.11. Nuisances. No rubbish or debris of any kind shall be placed or permitted by an Owner upon or adjacent to any Lots, so as to render such Lot or portion thereof unsanitary, unsightly, offensive, or detrimental to other Owners. No Living Unit or Lot shall be used in such manner as to obstruct or interfere with the enjoyment of other Living Units or Lots. Without any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (except security devices used exclusively for security purposes) shall be located or placed on Lots or in Living Units.

7.12. Right of Entry. During reasonable hours, any member of the Architectural Control Committee or any member of the Board, or any officer or authorized representative of any of them, shall have the right to enter upon and inspect any Lot, and the improvements thereof, to ascertain whether or not the provisions of this Declaration and the rules and regulations of the Board or of the Association have been or are being complied with.

7.13. Signs. No signs whatsoever (including, without limitation, political signs) shall be erected or maintained on any Lot, except:

- (a) Such signs as may be required to legal proceedings;
- (b) Construction identification signs, placed and maintained only during construction of a Living Unit, not exceeding four feet wide and four feet high, for each Living Unit;
- (c) A "For Sale" or "For Rent" sign, to extent permitted by the Board;
- (d) A sign for a "Home Alarm System" to extent permitted by the Board; and
- (e) Any other sign authorized by the Board in writing

7.14. Trash Containers and Collection. All garbage and trash shall be placed and kept in covered container of a type and style which shall be approved by the Architectural Control Committee. Insofar as possible, such containers shall be maintained as not to be visible from neighboring Lots except to make them available for collection and then only for the shortest time necessary to effect such collection.

7.15. Enforcement of Land Use Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

- (a) Declarant, so long as it has any interest in any of the Property;
- (b) Any Owner; or
- (c) The Association.

The prevailing party in an action for enforcement of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

## VIII. ARCHITECTURAL CONTROL

8.1. Architectural Control Committee. The Board of Trustees of the Association shall appoint a three-member Committee, the function of which shall be to insure that all improvements and landscaping within the property harmonize with existing surroundings and structures. The Committee need not be compiled of Owners. If such a Committee is not appointed the Board itself shall perform the duties required of the Committee.

8.2. Submission to Committee. No change to a Living Unit, accessory building or structure or addition to a Living Unit, except as herein otherwise mentioned, shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Committee. All such plans and specifications shall be consistent with Architectural Guidelines which shall be from time to time adopted by the Board.

8.3. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures and that such proposed improvements enhance the value and aesthetics of the Project.

8.4. Approval Procedure. Any plans and specifications submitted to the Committee shall be submitted on a form provided by the Committee and in duplicate. A preliminary review of design drawings will be required with a final review to be made of working drawings. Upon completion of each review, one set of plans will be retained by the Association and the remaining set of plans will be returned to the property Owner.

The following architectural review fees (made payable to the Association) may be required with the submittal of plans and specifications: \$100.00 for architectural, landscaping, fencing and lighting drawings.

All plans and specifications shall be approved or disapproved by it in writing within twenty (20) days after submission. In the event the Committee fails to take any action within such period it shall be deemed to have approved the material submitted.

8.5. Bond/Security Deposit. The Architectural Control Committee may require that an Owner post a bond, cash security deposit or irrevocable letter of credit in a form satisfactory to the Architectural Review Committee, in an amount not to exceed \$1,000.00, in favor of the Association, as a condition to approving any proposed work or improvement. No person shall commence any work or improvements until any and all such requested bonds, security deposits and letter of credit have been properly posted with the Architectural Review Committee. The deposit is intended to assure the proper clean-up of dirt and debris and the repair of any damage to the landscaping, streets or other property within the Subdivision, caused by Owner or his agents in the construction of improvements.

8.6. Address for Submittal. Plans and specifications for the construction and installation of any and all improvements within QUAIL CROSSING ESTATE shall be submitted and approved by the Architectural Control Committee (prior to submittal to any required governmental agency) at the following address:

QUAIL CROSSING ESTATE  
Homeowners Association Architectural Committee  
2869 Quail Estates Way  
Salt Lake City, UT 84106

The Board of Trustees of The QUAIL CROSSING ESTATE Home Owners Association has the authority to change the address for the submittal of plans and specifications.

**8.7. Construction.**

(a) Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion.

(i) The exterior construction of all structures on any Lot shall be completed within a period of one (1) year following commencement of construction.

(ii) The front yard of each Lot shall be landscaped within a period of one (1) year following completion or occupancy of the Living Unit.

(iii) Side and rear yards shall be landscaped within a period of one (1) year following completion or occupancy of each dwelling.

If reasonably necessary to enable such improvement, construction, landscaping or alteration, the person or persons carrying out the same shall be entitled to temporary use an occupancy of unimproved portions of the Common Areas in the vicinity of the activity.

(b) Owners and builders shall clean up all trash and debris on the construction site at the end of each week. Trash debris shall be removed from each construction site at least once a week to a dumping location off-site of the development. Light weight material, packaging and other items shall be covered or weighted down to prevent wind from blowing such materials off the construction site. Owners and builders are prohibited from dumping, burying or burning trash anywhere on the lot. During the construction period, each construction site shall be kept neat and shall be promptly removed from public or private roads, open spaces and driveways.

Each property Owner and builder shall be responsible for providing adequate sanitary facilities for his construction personnel. Portable toilets or similar temporary toilet facilities shall be located only on the site itself or in areas approved by the Architectural Control Committee.

Construction crews shall not park on, or otherwise use, other lots or any open space. All construction vehicles and machinery shall be parked only in areas designed by the Architectural Committee.

**8.8. Liability for Damages.** The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article VIII.

**8.9. Exceptions for Declarant.** The foregoing provisions of this Article VII shall not apply to any improvement, construction, landscaping, or alteration which is carried out by

Declarant on any Lot or on any part of the Common Areas and which occurs at any time during the seven (7) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.

8.10. Special Architectural for Lots 7 and 8. Because of the relationship of Lots 7 and 8 to Preston Street, a dedicated city street west of the Development, there are special architectural requirements for the construction of the Living Units on those two lots. The Living Unit constructed on Lot 7 must face north, so there is a side yard effect along Preston Street for the west side of said Living Unit, with windows on the side of the Living Unit facing west toward Preston Street. The Living Unit constructed on Lot 8 must face south, so there is a side yard effect along Preston Street for the west side of said Living Unit, with windows on the west side of the Living Unit facing west toward Preston Street.

#### IX. RIGHTS OF FIRST MORTGAGE

Notwithstanding anything to the contrary contained herein, the following provisions shall apply:

9.1. Notice of Default. In the event and Owner neglects for a period of thirty (30) days or more to cure any failure on his part to perform his obligations under this Declaration, the Association shall give written notice of such fact to the holder of any first mortgage covering such Owner's Lot.

9.2. Abandonment, Termination, Etc. Unless all of the holders of first mortgages on the individual Lots have given their prior written approval, neither the Association nor the Owners acting as a group shall be entitled by act, omission or otherwise:

- (a) To abandon or terminate the project or to abandon or terminate the arrangement which was established by the Declaration and the Plat of the Project.
- (b) To partition or subdivision any Lot or the Common Areas;
- (c) To abandon, partition, subdivide, encumber, sell, hypothecate, transfer or otherwise encumber all or any part of the Common Areas except for the crating of easements and similar purposes consistent with the intended sue of the Common Areas;  
or
- (d) To use hazard insurance proceeds resulting from damage to any part of the development for any proposes other than the repair replacement, or reconstruction of such improvements.

9.3. Notice of Substantial Damage or Destruction. The Association shall notify all holders of any first mortgage lien or equivalent security interest on a Lot in writing in the event that there occurs any substantial damage to or destruction of any Living Unit or any part of the Common Areas involving an amount in excess of, or reasonably estimated to be in excess of \$15,000. Said notice shall be given within ten (10) days after the Association learns of such damage or destruction.

9.4 Condemnation or Eminent Domain Proceedings. The Association shall give written notice to all holders of any first mortgage lien or equivalent security interest of any condemnation proceedings or proposed acquisition of a Living Unit or of any portion of the Common Areas within ten (10) days after the Association learns of the same.

9.5. Hazard Policy to Include Standard Mortgagee Clause. Each hazard policy of the insurance shall include the standard mortgagee clause which either shall be endures to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interest may appear, or shall be otherwise endorsed to fully protect the interest of mortgagees. In addition, the mortgagee clause shall provide that the insurance carrier shall notify each mortgages at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

9.6. Rights Upon Foreclosure of Mortgage. The lien of the assessments provided in Section 1, Article V shall be subordinate to the lien of any First Mortgage upon such Lot; and the holder of a first mortgage (or deed of trust) on a Lot who comes into possession of the Lot by virtue of foreclosure of such first Mortgage, or lieu of foreclosure obtains possession by deed or assignment, or any purchaser at a foreclosure sale, will talk the Lot free of any claim for unpaid assessments and charges against the Lot which accrue prior to the time such holder come into possession of the Lot, except for claim for share of such assessments or charges resulting from a reallocation of such assessments or charges to all Lots including the mortgage Lot.

9.7. Mortgagee's Rights Concerning Amendments. No material amendment to this Declaration, the By-Laws or the Articles of Incorporation, of the Association shall be accomplished or effective unless at least two-thirds (2/3) of the mortgagees (based on one vote for each mortgagee) of the individual Lots have given their prior written approval to such amendment.

9.8. Mortgagees' Rights to Inspect Association Records. The holders of first mortgages shall have the right upon reasonable notice and during business hours to inspect and copy at their own expense all books and financial records of the Association.

## X. MISCELLANEOUS

10.1 Notices. Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the person who appears as Member or Owner, at the latest address for such person appearing in the records of the Association at the time of mailing.

10.2 Amendment. Subject to the provisions of Section 2 of Article VII of this Declaration any amendment hereto shall require (i) the affirmative vote of at least two-thirds (2/3) of all membership votes, which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

10.3. Consent in Lieu of Voting. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding. The following additional provisions shall govern any application of this Section 10.3:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.

(b) The total number of votes required for authorization or approval under this Section 10.3 shall be determined as of the date on which the last consent is signed.

(c) Except as provided in the following sentence, any change in Ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in Ownership which would otherwise result in an increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

(d) Unless the consent of all Members whose memberships are appurtenant to the same Lot are secured, the consent of none of such Members shall be effective.

10.4. Lease Provisions. Any Owner may lease his Lot and such buildings as are situated thereon; provided, however, that any lease agreement between a Lot Owner and a Lessee is subject to the rental rules adopted by the Board and must be in writing, a copy of which upon request must be provided to the Association Board, and, if so, must provide, inter alia, that:

(a) The terms of the lease shall in all respects be subject to the provisions of the Declaration, Articles of Incorporation of the Association By-Laws, and Rules; and

(b) Any failure of such documents shall constitute a default under the lease. The Association may charge Owners/Landlords or renters an impact fee and/or a security deposit in an amount to be determined by the Board.

10.5. Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the property may be assigned.

10.6. Dissolution. Subject to the restrictions set forth in Article VII of this Declaration pertaining to mortgages protection, the Association may be dissolved by the affirmative assent in writing of two-thirds (2/3) of the votes of the membership. Upon dissolution of the Association all of its assets (including the Common Areas) may be dedicated or transferred to an appropriate public agency or authority to be used for purposes similar to those provided for in the By-laws, the Articles of Incorporation or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be



obligated to make assessment payments for the maintenance and upkeep of the Common Areas, common access roadways, curbs, gutters and the assessment procedure, terms and conditions set forth in Article V of this Declaration.

10.7. Declarant's Covenant to Construct Common Areas. Declarant hereby covenants to construct and complete all Common Areas improvements and amenities indicated on the Plat within two (2) years of the filing of this Declaration in the office of the County Recorder of Salt Lake County, Utah.

10.8. Enforcement by County. If the Association fails to maintain the Common Areas, the common access roadways, along with the curbs, gutters and sidewalks, in good order and condition, Salt Lake County shall have the right, but not the obligation, upon giving the Association thirty (30) days notice in writing, to step in and do the necessary maintenance and management with the same right to lien the Lots and collect the costs thereof against the Owners as the Association has under Declaration shall not affect the validity or enforceability of the remainder hereof.

10.9. Interpretation. The citations which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

10.10. Property Part of Development. The Property shall comprise the QUAIL CROSSING ESTATE Subdivision.

10.12. Covenants to Run With Land. This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitude, as the case may be, and shall be binding upon and shall insure to the benefit of the Original Declarant, and all parties who hereafter acquire any interest in a Lot or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Association or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interests consents to, and agrees to be bound by, each and every provision of this Declaration.

10.13. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record office of the County Recorder of Salt Lake County, Utah.

EXECUTED the 15<sup>th</sup> day of August, 2014.

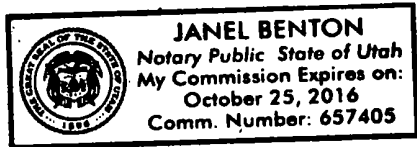
Declarant:  
QUAIL CROSSING ESTATES HOMEOWNERS' ASSOCIATION,  
a Utah nonprofit corporation

By: *Keven Hoopiaina*  
Name: Keven Hoopiaina  
Title: President

STATE OF UTAH                    )  
  ss  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 15 day of August by Keven Hoopiaina, the President of QUAIL CROSSING ESTATES HOMEOWNERS' ASSOCIATION.

*Janel Benton*  
NOTARY PUBLIC



EXECUTED the 15<sup>th</sup> day of August, 2014.

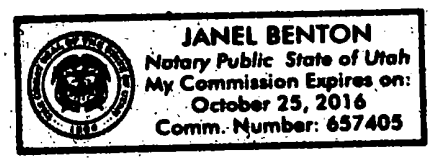
Declarant:  
QUAIL CROSSING ESTATES HOMEOWNERS' ASSOCIATION,  
a Utah nonprofit corporation

By:   
Name: Elenie Sefandonakis  
Title: Secretary

STATE OF UTAH                    )  
  ss  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 15 day of August by Elenie Sefandonakis, the Secretary of QUAIL CROSSING ESTATES HOMEOWNERS' ASSOCIATION.

  
NOTARY PUBLIC



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

The real property referred to in the foregoing document is located in Salt Lake County, Utah and is described more particularly as follows:

Block / Building	Type	Lot / Quarter	Parcel Number	Obsolete?
	L	1	16-28-230-031-0000	N
	L	2	16-28-230-037-0000	YES
	L	2	16-28-230-044-0000	N
	L	3	16-28-230-036-0000	YES
	L	3	16-28-230-043-0000	N
	L	4	16-28-230-035-0000	YES
	L	4	16-28-230-042-0000	N
	L	5	16-28-230-034-0000	YES
	L	5	16-28-230-041-0000	N
	L	6	16-28-230-033-0000	YES
	L	6	16-28-230-040-0000	N
	L	7	16-28-230-032-0000	N
	L	8	16-28-230-028-0000	N
	L	9	16-28-230-024-0000	N
	L	10	16-28-230-022-0000	N
	L	11	16-28-230-025-0000	N
	L	12	16-28-230-029-0000	N
	L	13	16-28-230-030-0000	N
	L	14	16-28-230-023-0000	N
	L	15	16-28-230-026-0000	N
	L	16	16-28-230-027-0000	N

For information purposes only the address of the property is 2950 South 2000 East, Salt Lake City, Utah 84106.

**EXHIBIT "B"**  
**FENCE DETAIL**

(Contact Architectural Control Committee)