



\*W2186392\*

E# 2186392 PG 1 OF 39  
DOUG CROFTS, WEBER COUNTY RECORDER  
13-JUN-06 11:15 AM FEE \$164.00 DEP KKA  
REC FOR: THE CREST HOA

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
HERITAGE COVE P.R.U.D  
(Also Doing Business As THE CREST P.R.U.D.)**

TABLE OF CONTENTS

RECITALS:

- I. DEFINITIONS
- II. PROPERTY DESCRIPTION
- III. MEMBERSHIP AND VOTING RIGHTS
  - 3.1 Membership
  - 3.2 Voting Rights
  - 3.3 Multiple Ownership Interests
  - 3.4 Record of Ownership
- IV. PROPERTY RIGHTS IN COMMON AREAS
  - 4.1 Easement of Enjoyment
  - 4.2 Form of Conveyancing
  - 4.3 Ownership of Common Areas
  - 4.4 Limitation on Easement
- V. ASSESSMENTS
  - 5.1 Personal Obligation and Lien
  - 5.2 Purpose of Assessments
  - 5.3 Maximum Monthly Assessment
  - 5.4 Special Assessment
  - 5.5 Reimbursement Assessment of Specific Lot
  - 5.6 Uniform Rate of Assessment
  - 5.7 Monthly Assessment Due Date
  - 5.8 Certificate Regarding Payment
  - 5.9 Effect of Non-Payment; Remedies
  - 5.10 Tax Collection by County Authorized
- VI. DUTIES AND POWERS OF THE ASSOCIATION
  - 6.1 Duties of the Association
  - 6.2 Powers and Authority of the Association
  - 6.3 Association Rules
  - 6.4 Limitation of Liability
  - 6.5 Insurance
  - 6.6 Quorum Requirements
- VII. USE RESTRICTIONS
  - 7.1 Use of Common Area
  - 7.2 Use of Lots and Living Units
  - 7.3 Building Features and Materials
    - (a) Building Location
    - (b) Garages
    - (c) Exterior Building Wall Materials
    - (d) Roof, Soffit and Facia
    - (e) Chimneys
    - (f) Mailboxes
    - (g) Fences and Walls
    - (h) Paving
    - (i) Solar Equipment
    - (j) Antennas
    - (k) Sheet Metal, Flashing and Vents

- (l) Mechanical Equipment
- (m) Gas and Electric Meters
- (n) Landscape Site Preparation Guidelines
- (o) Site Grading and Drainage
- (p) County and Other Approval
- (q) Metal Awnings
- (r) Size and Height of Living Unit Location
- 7.4 Landscaping
- 7.5 Recreational Vehicles
- 7.6 Pets
- 7.7 Common Area
- 7.8 Insurance
- 7.9 Machinery and Equipment
- 7.10 Maintenance and Repair
- 7.11 Nuisances
- 7.12 Right of Entry
- 7.13 Signs
- 7.14 Trash Containers and Collection
- 7.15 Enforcement of Land Use Restrictions

**VIII. ARCHITECTURAL CONTROL**

- 8.1 Architectural Control Committee
- 8.2 Submission to Committee
- 8.3 Standard
- 8.4 Approval Procedure
- 8.5 Bond Security Deposit
- 8.6 Address for Submittal
- 8.7 Construction
- 8.8 Liability for Damages

**IX. RIGHTS OF FIRST MORTGAGEE**

- 9.1 Notice of Default
- 9.2 Abandonment Termination, Etc.
- 9.3 Notice of Substantial Damage or Destruction
- 9.4 Condemnation or Eminent Domain Proceedings
- 9.5 Hazard Policy to Include Standard Mortgage Clause
- 9.6 Rights Upon Foreclosure of Mortgage
- 9.7 Mortgagees' Rights Concerning Amendments
- 9.8 Mortgagees' Rights to Inspect Association Records

**X. MISCELLANEOUS**

- 10.1 Notices
- 10.2 Amendments
- 10.3 Consent in Lieu of Voting
- 10.4 Lease Provision
- 10.5 Dissolution
- 10.6 Enforcement by County
- 10.7 Interpretation
- 10.8 Property Part of Development
- 10.9 Covenants to Run With Land
- 10.10 Effective Date

EXHIBIT "A"  
LEGAL DESCRIPTION

EXHIBIT "B"  
DETENTION EASEMENT

EXHIBIT "C"  
BYLAWS

**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**FOR HERITAGE COVE P.R.U.D. PLAT A, PLAT B, & PLAT C  
(Also Doing Business As THE CREST P.R.U.D.)**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Heritage Cove P.R.U.D. (also doing business as The Crest P.R.U.D.) is made and executed this 13th day of June, 2006, by The Crest Homeowners Association, of P.O. Box 548, West Jordan, Utah 84084 (the "Association").

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Heritage Cove, P.R.U.D., (also doing business as The Crest, P.R.U.D.) supersedes and replaces the Declaration of Covenants, Conditions and Restrictions of Heritage Cove P.R.U.D. recorded as Entry No. 1559824, Book 1941, Page 1913 in the Weber County Recorder and incorporates all supplements and amendments thereto as expressed herein.

**RECITAL**

A. Association. The Association is the authorized representative of the owners of certain real property known as Heritage Cove P.R.U.D. Plat A, Plat B, and Plat C, (also doing business as The Crest, P.R.U.D.) located in Weber County, Utah and more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Project");

B. Existing Project. The Project consists of seventy-six (76) Lots and certain Common Area and Facilities;

C. Declarant. The Declarant owns no Lots within the Project and has turned over control of the Association to the Owners; accordingly, Declarant rights have been terminated or otherwise have expired;

D. Original Declaration. The original declaration for Heritage Cove P.R.U.D. was recorded in the Weber County Recorder's Office, state of Utah on July 15, 1998 as Entry No. 1559824, in Book 1941 at Page 1913 of the Official Records (the "Original Declaration");

E. Purpose of Amended and Restated Declaration. The Association by affirmative vote of more than two-thirds (2/3) of all members has adopted the following two amendments to the Original Declaration:

1. Article III, Section 3.4 shall be amended to implement a transfer fee of up to \$256.00 for all property conveyances. Article V, Section 5.5 shall be amended to allow the Association to collect transfer fees in the same manner as

Reimbursement Assessments. The Board has determined that it is in the best interests of the Association to implement a transfer fee to offset the administrative expenses incurred by the Association when property transfers occur.

2. Article X, Section 10.4 has been amended to restrict and govern the leasing and renting of Lots within the Property. To avoid the communal ills, including among other things, rules violations, abuse and destruction of community and private property and the consequent increase in insurance premiums, and the diminished safety of the owners, associated with a high levels of tenancy, the Association deems restricting and regulating the manner of renting and number of rentals within the community necessary and in the best interest of the owners.

In addition to incorporating the foregoing amendments directly into the body of the text, the association also desires to remove all language from the Original Declaration which grants or affects the Declarant's rights and/or responsibilities.

F. Name of Project. The Project is known and shall continue to be known as Heritage Cove P.R.U.D., Plat A, Plat B, & Plat C; however, the Association by affirmative vote of more than 2/3 of all members has decided that the Association name shall be officially changed to "The Crest Homeowners Association."

G. This document affects the real property located in Weber County, Utah, described with particularity on Exhibits "A", "B", and "C," attached hereto and incorporated herein by this reference (the "Property").

H. The Association owns the Common Area and is the managing agent for the Lot Owners.

I. All of the voting requirements set forth in the Declaration and Bylaws have been satisfied.

NOW, THEREFORE, for the benefit of the Project and the Lot Owners thereof, the Association hereby executes this Declaration of Covenants, Conditions and Restrictions for Heritage Cove P.R.U.D., Plat A, Plat B, & Plat C, (also doing business as The Crest, P.R.U.D.) for and on behalf of all of the Lot Owners.

#### I. DEFINITIONS

1.1 Additional Land shall, at any point in time, mean the real property, or any portion thereof, located in Weber County, State of Utah, and more particularly described on Exhibit "A" attached hereto.

1.2 Association shall mean and refer to The Crest Homeowners' Association, Inc., a Utah non-profit Corporation.

1.3 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 Bylaws of the Association.

1.4 Common Areas shall mean and refer to the 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 including but not limited to streets, driveways and sidewalks, together with all improvements thereon and all easements appurtenant thereto including but not limited to private utility lines, landscape easements and personal property owned by the Association when the context so requires.

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

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

1.7 Landscape Easement shall mean those areas upon each Lot other than the area of the Living Unit in which the Association has retained an easement to approve, control and maintain landscaping for the benefit of all Owners of Lots within the Subdivision. The Landscape Easement shall not be a Common Area but costs incurred by the Association in controlling and maintaining such areas for the benefit of Members shall be deemed Common Area costs to the extent not assessable to specific Owners. Owners shall not modify any landscaping within the Landscape Easement without prior consent of the Architectural Control Committee.

1.8 Living Unit 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.

1.9 Lot shall mean and refer to any one of 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.

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

1.11 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.

1.12 Mortgagee shall mean any person named as a mortgagee of a mortgage or beneficiary under or hold of a deed of trust.

1.13 Officers shall mean and refer to the Officers of the Association as duly elected or appointed in accordance with the terms and conditions of the Articles of Incorporation and Bylaws of the Association.

1.14 Owner shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Weber 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.

1.15 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 Weber Country, 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 II of this Declaration.

1.16 Plat shall mean and refer to Heritage Cove P.R.U.D. Plat A recorded December 5, 1997 in the Weber County Recorder's Office as Entry No. 1508351; Heritage Cove P.R.U.D. Plat B recorded December 5, 1997 in the Weber County Recorder's Office as Entry No. 1508352; and Heritage Cove P.R.U.D. Plat C recorded December 5, 1997 in the Weber County Recorder's Office as Entry No. 1508353, or any subdivision plat, any plat of a planned residential unit development, or any plat or map similar to any of the foregoing: (a) which covers the Property; (b) which describes or creates 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 comprise the Development; and (d) which is filed for record in the office of the County Recorder of Weber County, Utah. Said Subdivision plat constitutes a Plat.

1.17 Private Streets shall mean and refer to all of the undedicated roads and streets within the Subdivision as designated upon a Plat as an easement for ingress and egress for pedestrian and vehicular traffic for the use, in common, of Members. Private Streets shall for all purposes be deemed to be Common Areas.

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

1.19 Subdivision shall mean and refer to the entire residential development and/or planned residential unit development which is created and covered by a Plat.

## II. PROPERTY DESCRIPTION

2.1 Submission. 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 Weber 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.

SUBJECT TO that certain Detention Easement recorded on the \_\_\_ day of \_\_\_\_\_ in the offices of the Weber County Recorder as Entry No. \_\_\_\_\_ at Book \_\_\_\_\_ Page \_\_\_\_\_ in favor of \_\_\_\_\_, the legal description of which is attached hereto as Exhibit "B".



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 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 record.

2.2 Annexation by Association. Notwithstanding the limitations of annexation set forth in Section 2.3 the Association may annex real property other than Additional Land, by satisfying the following filing requirements set forth herein but only after obtaining approval of such annexation from (a) the owner or owners of the real property to be annexed, and (b) the affirmative vote of at least two-thirds (2/3) of all Class A membership votes, which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. The annexation of any such Additional land shall become effective upon the recordation in the office of the Weber County Recorder of a Plat for such Additional land, or portion thereof, and a supplemental declaration which (i) describes the real property to be annexed and confirms that it is part of the Additional Land; (ii) declares that the annexed real property is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the Property and subject to this Declaration; and (iii) sets forth such additional limitations, restrictions, covenants and conditions as are imposed by the owner of and applicable to the annexed real property. Upon the effective date of such annexation, the annexed real property as identified in the Plat of the same, shall become part of the Property and Development and subject to the provisions of this Declaration and any amendment or supplement thereto.

### III. MEMBERSHIP AND VOTING RIGHTS

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. The Association shall have the following described class of voting membership.

Class A. Class A Members shall be all Owners. Class A 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 Class A 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 voting relating to such Lot shall be exercised by such Owners may determine among themselves. A vote cast at an 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 or, (agent of 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 or, (agent of owner) shall file a copy of such conveyance document (or contract) with the Association with a transfer fee of the equivalent of two months assessment, not to exceed \$256.00. The Association or a representative of the

Association 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 provide 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 the Private Streets. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement to 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 Heritage Cove, P.R.U.D., Plat \_\_\_\_\_, as the same is identified in the Plat recorded in Book \_\_\_\_\_, at page \_\_\_\_\_, and in the "Declaration of Covenants, Conditions and Restrictions of Heritage Cove, P.R.U.D." recorded in Book \_\_\_\_\_, at Page \_\_\_\_\_; of the official records of the Weber 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 in the official record of the Weber County Recorder.

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

4.3 Ownership of Common Areas. The Association holds title to the Common Areas.

4.4 Limitation on Easement. A Member's right and easement of use and enjoyment concerning 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 Areas;
- (b) The right of the Architectural Control Committee to approve and designate the point of access to and from a Lot to the Private Streets in accordance with the requirements of Article VIII;

(c) The right of the City of Roy, County of Weber 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 or transfer 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 proposed 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 provided for interest and costs of collection. All such amounts shall be, constituted, 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 his 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 attorneys fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

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 cost of taxes and insurance on the Common Areas; maintenance, repair and improvement of the Common Areas; established and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation.

5.3 Maximum Monthly Assessment. As of the date set under Section 5.7, each Lot shall be subject to a monthly assessment of not more than One hundred twenty-eight Dollars (\$128.00). From and after January 1, 1998, the maximum monthly assessment may be increased or decreased so long as the change is assented to by not less than a majority of the Members, present in person or represented by proxy at a meeting duly called for such purposes. Written notice setting for 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. The Officers of the Association may from time to time and in their discretion set the amount of the monthly assessment at any sum not in excess of the then applicable maximum amount.

5.4 Special Assessment. From and after the date set under Section 5.7 (the date of a first conveyance), the Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonable 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 assessment must be assented to by not less than a majority of the Members, present in person or represented by proxy are entitled to cast 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 to Section 5.3 and 5.4 above, the Officers may levy at any time Special Assessments (a) on each Lot specifically benefited by any improvement 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 charges; (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(a), Section 6.2(a), Section 7.8, 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 Assessment 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 benefited.

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 assessment provided for herein shall commence as to all Lots on the date a deed is delivered to the purchaser of a Lot, if the sale is by way of a contract of sale (by installment payments with a deed to be delivered on payment), 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 a 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 \$10.00. 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 costs of collection be, constitute and remain a continuing lien on the affected Lot; provided, however, that any such lien will be

subordinate to the lien or equivalent security interest of any first mortgage on the Lot recorded prior to the date any such assessment 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 the 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 (including those of a paralegal and any fees incurred on appeal), court cost, 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 Weber County. It is further recognized that each Owner of a Lot as 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, Weber 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 of the 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 shall own all Common Areas.
- 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 Association's express agreement to maintain such landscaping.

The Association shall maintain, repair and replace landscaping within the Landscape Easement including water therefore.

As provided in Section 7.11, each Owner shall have the obligation to provide exterior maintenance of the Living Unit including not limited to painting, repair, replacement and care of roofs, gutters, down spouts, exterior building surfaces, and landscaping installed on the balance of the Lot excluding the Landscape Easement 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 acts of an Owner, or through the willful or negligent acts of the family, guests or invitees of an Owner, the officers may cause such repairs to be made by the Association and the cost of such maintenance or repair (and administrative expenses equal to ten percent (10%) 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 time to direction by the Officers, with such administrative functions and powers as shall be delegated to the Managing Agent by the Officers. The compensation of the Managing Agent shall be such as shall be specified by the Officers. Any agreement appointing a Managing Agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days writing notice thereof; and the term of any such agreement 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 any Bylaws, together with its general powers as a 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. Without 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 from time to 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 (including a Living Unit) 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 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 regulations promulgated by the Officers, or to enforce by 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 rights to construct, maintain and repair improvements or other work upon any of the Common Areas, and provided that any contract for goods or services having a term of 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 Officers shall deem appropriate.

ii. Such insurance policies or bonds as the Officers may deem appropriate for the protection or benefit of the Association, the members of the Officers and the Owners;

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

iv. The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Officers may deem desirable;

v. Fire, police and such other protection services as the Officers 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 Officers may deem necessary.

c. The Officers may delegate by resolution or contract to the Managing Agent any of its powers under this Declaration; provided, however, that the Officers 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 Officers 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) the use of Living Units for business or rental purposes; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents. The Officers may also adopt additional Architectural Guidelines for the construction of Living Units. Rules and Regulations and or Architectural Guidelines adopted by the Officers may be enforced in accordance with the Provisions of Section 7.16.

6.4 Limitation of Liability. No Manager or the Officers 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 Officers, 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 Crest Homeowner's Association, Inc., for the use and benefit of the individual Members, Lot Owners and Mortgagees, as their interest may appear".

(b) A policy or policies insuring the Owners, the Association, and its directors, 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 the \$500,000.00 for any one person injured; \$2,000,000.00 for all persons injured in any one accident; and \$500,000.00 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 thereafter may be customarily insured against 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 mortgagees.

(5) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: a waiver of the insurer's subrogation rights with respect to the Association, the Owner, and their respective directors, officers, agents, employees, invitee, and tenants; that it cannot be cancelled, 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 director, officer, agent or employee of the Association without a prior written demand that the defect be cured; without a prior written demand that the defect be cured; 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 as 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 (1/2) of the quorum which was required at the immediately preceding meeting. If any 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 consistent 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. No gainful occupation, profession, trades or other non-



residential use shall be conducted on any Lot or Living Unit without the prior written consent of the Association and applicable governmental entities. Except as may be approved to the contrary, 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 located solely following setbacks (in addition to those imposed by applicable governmental entities): front yard – 15 feet, back yard – 10 feet, side yard – 4 feet, and oriented as shown on the Plat, except as may be consented to by the Architectural Control Committee in accordance with the provisions of Article VIII.

(ii) For the purposes of this covenant, steps and open porches shall be considered as a part of a building, but eaves may extend beyond the setbacks if permitted by applicable building codes.

(b) Garages. Garages must be fully enclosed and located within the setbacks, accommodate a minimum of one (1) car. Carports are not permitted within the Subdivision.

(c) Exterior Building Wall Materials. Masonry, stucco and siding are permitted for the exteriors of Living Units. 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 material shall be restricted to shingles or other materials approved by the Architectural Control Committee. Soffit and Facia material shall be restricted to Aluminum or other materials approved by the Architectural Control Committee.

(e) Chimneys. Chimneys of approved exterior materials may not exceed the height required by appropriate governmental agencies.

(f) Mailboxes. Mailboxes shall be subject to approval of the United States Post Office, and shall be maintained by the Association.

(g) Fences and Walls. Subject to the exceptions set forth below fencing may be installed by each Lot owner on rear yards (at the boundaries of the Limited Common Areas) and shall be constructed of wrought iron, plastic (pvc) or wood as approved by the Architectural Control Committee. All such fences installed by Lot Owners shall contain a gate to permit access from the Common Areas to the Limited Common Areas.

Fences shall not extend beyond the Limited Common Area located to the rear of any Living Unit. Five foot, zero inch, high privacy enclosures (fences) shall be permitted on corner Lots on one side only as approved by the Architectural Control Committee, but shall not be closer than 15 feet to the Lot line. Privacy enclosures shall be constructed and maintained in the same manner as other fencing.

Project, perimeter fences are to be maintained by the Association.

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

(h) Paving. Driveway and other flat paved areas may be concrete, exposed aggregate concrete, stamped concrete or other materials approved by the Association.

(i) Solar Equipment. The use of solar panels and frames are subject to the prior approval of the Architectural Control Committee. Any such solar panels are to be integrated into roof design. Panels and frames must be copper or compatible with roof colors and all equipment must be screened from view.

(j) 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 (of not less than three feet in diameter) shall be allowed provided they are screened from view and their location is approved by the Architectural Control Committee.

(k) 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 the exception of copper.

(l) Mechanical Equipment. All air conditioning, heating equipment, swamp coolers and soft water tanks must be screened from view and installed 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.

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

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

(o) Site Grading and Drainage. No Lot Owner shall modify site grading or storm drainage facilities without the prior written consent of the Architectural Control Committee.

(p) County 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 process. By approving plans, the Architectural Committee takes not responsibility for plan conformity to any other criteria other than the requirements of this Declaration and any Architectural guidelines.

(q) Metal Awnings. Metal Awnings, metal "lean-tos", or metal patio covers shall not be permitted on any Lot, without the prior written consent of the Architectural Control Committee.

(r) Size and Height of Living Unit Location. Each living Unit shall be located and constructed within the required setbacks.

7.4 Landscaping. The Association shall have the right to designate the types of trees which are recommended and suggested for incorporation into landscape designs for all Lots.

7.5 Recreational Vehicles. No boats, trailers, large trucks and commercial vehicles belonging to Owners or other residents of the Property shall be parked within the Development, except temporary parking not to exceed forty-eight (48) hours, or within an area designated by the Plat for the storage of such recreational vehicles. No motor vehicle of any kind shall be repaired, constructed or reconstructed upon any Lot, Private Street or other Common Areas, except that these restrictions shall not apply to emergency repairs to vehicles. Any motor or recreational vehicles must be kept in an enclosed garage.

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 lease or in a cage. No animal 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 pet 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 officers by resolution or as regulation may provide.

7.7 Common Areas. Subject to the restrictions of Section 7.8, the Common Areas of the Development shall be improved and used only for the following purposes:

- (a) Vehicular and pedestrian access to and from and 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 Officers 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 improvement 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).

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 Lot shall be permitted to fall into disrepair and subject to the requirements herein as to approval by the Architectural Control 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, down spouts, and exterior building surfaces.

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 occupants of other Living Units or Lots. Without any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (except security devises 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 Manager, 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, the requirements of the Committee as specified in Article VII, and the rules and regulations 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 by legal proceedings.
- (b) Construction identification signs of a combined total face area of five hundred seventy-six (576) square inches or less for each Living Unit.
- (c) A "For Sale" or "For Rent" sign, to the extent permitted by the Officers.

7.14 Trash Containers and Collection. All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the Architectural Control Committee. Insofar as possible, such containers shall be maintained as not be visible from neighboring Lots except to make them available for collection and then only for the shortest time necessary to effect such collection. Each Owner must at all times and at their expense provide garbage cans and plastic liners therefore, unless the Association elects to provide the same.

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) Any Owner; or
- (b) The Association.

### VIII. ARCHITECTUREAL CONTROL

8.1 Architectural Control Committee. The Officers 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 (herein the "Committee"). The Committee need not be composed of Owners. If such a Committee is not appointed the Officers shall perform the duties required of the Committee.

8.2 Submission to Committee. No Living Unit, accessory building or structure or addition to a Living Unit and no landscape additions and changes shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Living Unit, nor of any court enclosure, except as herein otherwise mentioned, shall be performed, unless complete plans and specifications therefore 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 Officers.

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 triplicate. 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, one set will be retained by the reviewing architect (if any) and the remaining set of plans will be returned to the property owner.

All plans and specifications shall be approved or disapproved by it in writing within thirty (30) 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 improvement until any and all such bonds, security deposits and letters 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 The Crest shall be submitted and approved by the Architectural Control Committee (prior to submittal to any required governmental agency) at the following address:

The Crest Homeowners Association, PO Box 548, West Jordan, Utah 84084.

The Officers of The Crest Homeowners Association have 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, side and rear yards of each Lot shall be landscaped within a period of one (1) year following completion or occupancy of the Living unit.

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 and 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 and debris shall be removed from each construction site at least once a week to a dumping location off-site of the development. Lightweight material, packaging and other items shall be covered or weighted down to prevent wind from blowing such material 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 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 Control 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.

#### IX. RIGHTS OF FIRST MORTGAGEE

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

9.1 Notice of Default. In the event an 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 Declarant and the Plat of the Project.
- (b) To partition or subdivide 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 Area except for the creating of easements and similar purposes consistent with the intended use of the Common Areas;  
or

(d) To use hazard insurance proceeds resulting from damage to any part of the development for any purposes 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 \$15,000.00. 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 Mortgage Clause. Each hazard policy of the insurance shall include the standard mortgagee clause which either shall be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgages as their interests may appear, or shall be otherwise endorsed to fully protect the interest of mortgages. In addition, the mortgagee clause shall provide that the insurance carrier shall notify each mortgagee 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 in lieu of foreclosure obtains possession by deed or assignment, or any purchaser at a foreclosure sale, will take the Lot fee of any claims for unpaid assessments and charges against the Lot which accrue prior to the time such holder comes into possession of the Lot, except for claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all Lots including the mortgage Lot.

9.7 Mortgagees' Rights Concerning Amendments. No material amendment to this Declaration or the Articles of Organization 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 the 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 personally delivered or if mailed, postage prepaid, to the person who appears as a Member or Owner, at the latest address for such person appearing in the records of the Association at the time of mailing.

10.2 Amendments. Subject to the provisions of Section 9.2 of Article IX of this Declaration any amendment hereto shall require the affirmative vote of at least two-thirds (2/3) of all Class A membership votes, which Members present in person or represent 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. The quorum required for any such meeting shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all votes of the Class A Membership shall constitute a quorum. If the quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 3), at which a quorum shall be one-half (1/2) 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. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by two Officers. In such instrument two Officers of the Association shall certify that the vote required by this Section for amendment has occurred.

10.3 Consent in Lieu of Voting. In any case in which this Declaration required 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 in connection with the Class of membership considered. 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 this 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 membership are appurtenant to the same Lot are secured, the consent of none of such Members shall be effective.

10.4 Lease Restrictions and Limitations of Unit Ownership. In order for the Association to protect the equity of the individual property owners within the Project; carry out the purpose for which the Project was formed by preserving the character of the Project as a homogenous residential community of predominantly owner-occupied complex; and to comply with the eligibility requirements for financing in the primary and secondary mortgage market insofar as such criteria provide that the Project be substantially owner-occupied, the following leasing and ownership restriction shall apply to all Units:

(a) No more than six point five percent (6.5%) of the Units in the Project may be leased or occupied by non-Owner residents. Any Owner who



intends to lease his Unit shall submit a written application to the Management Committee (the "Committee") requesting permission to do so, which consent shall not be unreasonably withheld, delayed or conditioned so long as at least ninety-three point five percent (93.5%) of the Units in the Project are Owner-occupied. For purposes of this section, the term "Owner-occupied" shall mean and refer to a Unit occupied by one of the following:

- (1) the owner of record, or
- (2) the owner of record and/or his spouse, children, or parents, or
- (3) the shareholder, partner, member, trustor, beneficiary or other legal representative of an institutional owner of record (provided, such person holds a beneficial interest in such legal entity of at least 50% and/or his spouse, children or parents.

No Unit may be leased without the prior written consent of the Committee. Any transaction that does not comply with this Section shall be voidable at the option of the Committee.

(b) Hardship Exception. The Committee, in its sole discretion, is empowered to allow reasonable leasing of Units beyond the percentage limitation set forth above upon written application to avoid undue hardship on an Owner. By way of illustration and not by limitation, examples of circumstances which would constitute undue hardship are those in which:

- (1) an Owner must relocate his residence and cannot, within ninety (90) days from the date the Unit was placed on the market, sell the Unit while offering it for sale at a reasonable price no greater than its current appraised market value;
- (2) the Owner dies and the Unit is being administered by his estate;
- (3) the Owner takes a leave of absence or temporarily relocated and intends to return to reside in the Unit;
- (4) the Unit is to be leased to a member of the Owner's immediate family, which shall be deemed to encompass children, grandchildren, grandparents, brothers, sisters, parents, and spouses. Those Owners who have demonstrated that the inability to lease their Unit would result in undue hardship and have obtained the requisite approval of the Committee may lease their Unit for such duration as the Committee reasonably determines is necessary to prevent undue hardship.

(c) Application for Hardship Exception. Any Owner who believes that he must lease his Unit to avoid hardship shall submit a written application to the Committee setting forth the circumstances necessitating the leasing, a copy of the

proposed lease, and such other information as the Committee may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Committee's written approval of the Owner's application. When a lease is approved, a copy of the lease, signed by the lessee and lessor, shall be submitted to the Committee within ten (10) days after it has been signed by both parties.

(d) Grandfather Clause. Anything to the contrary notwithstanding, the foregoing restrictions shall not apply to the Units (the "Grandfathered Units") outlined on Exhibit "B" attached hereto and incorporated herein by this reference. The Grandfathered Units may continue to be leased without being subject to the foregoing restrictions for so long as record title to said Units remains vested in the name of the respective Owner(s) thereof (the "Grandfathered Owner(s)"). The term "Grandfathered Owner" shall include a succeeding "Trust" or other "Person" (i.e., natural person, corporation, partnership, limited liability company, trust or other legal entity) (the "Qualified Successor Owner(s)") in which the Grandfathered Owner or such Owner's spouse, son, daughter, father or mother holds a beneficial interest in such Qualified Successor Owner of at least fifty percent (50%). Upon the conveyance of the Grandfathered Unit by the Grandfathered Owner or Qualified Successor Owner, the said Unit shall immediately become subject to the restrictions set forth above.

(e) Percent Ownership. No single Person or Family or their Affiliates may own or control more than 10% of all the Units in the Project. For purposes of this section, the terms stated below shall have the meaning indicated.

(1) "Person" shall mean and refer to a natural person, corporation, partnership, trust limited liability company, or other legal entity;

(2) "Family" shall mean and refer to his relative, the children, grandchildren, grandparents, brothers, sisters, parents and spouses of an owner.

(3) "Affiliate" shall mean and refer to any Person (a) which directly or indirectly controls, or is controlled by or is under common control with a Unit owner; (b) which directly or indirectly beneficially owns or hold five percent (5%) or more of the voting share of voting interests of which is directly or indirectly beneficially owned or held by said Unit owner; and

(4) "Control" shall mean and refer to the possession, directly or indirectly, of the power to direct or cause the direction of the management, and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

If a single Person or Family owns 10% or more of the units in the Project now, then they are prohibited from buying any Unit in the future, which would further increase their percentage of ownership beyond the limit of 10%.

(f) Effective Date. The effective date of this Amendment is the date it is recorded in the office of the County Recorder of Weber County, Utah.

10.5 Dissolution. Subject to the restrictions set forth in Article IX of this Declaration pertaining to mortgage protection, the Association may be dissolved by the affirmative assent in writing of two-thirds (2/3) of the votes of each class membership. Upon dissolution of the Association all of its assets (including the Common Area) may be dedicated or transferred to an appropriate public agency or authority to be used for purposes similar to those provided for in the Articles of Organization 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 non-profit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to 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 sidewalks on a pro rata basis which conforms substantially with the assessment procedure, terms and conditions set forth in Article V of this Declaration.

10.8 Enforcement of County. If the Association fails to maintain the Common Areas, the common access roadways, along with the curbs, gutters and sidewalk, in good order and condition, Weber County shall have the right, but not the obligation, upon giving the Association thirty (30) days notice in writing, to perform 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 this Declaration shall not affect the validity or enforceability of the remainder hereof.

10.9 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which 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 HERITAGE COVE P.R.U.D., Plat A, Plat B, & Plat C, (also doing business as The Crest P.R.U.D.).

10.11 Covenants to Run With Land. This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of all parties who acquire any interest in the 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 interest consents to, and agrees to be bound by, each and every provisions of this Declaration.

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

EXECUTED the day and year first above written.

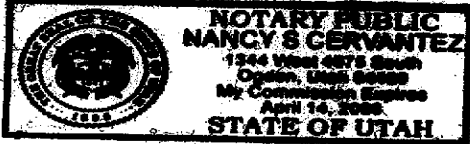
**THE CREST HOMOWNERS ASSOCIATION**

By Mary Ann Kirkland  
Its President

By Nancy Baker  
Its Secretary

STATE OF UTAH )  
 ) :ss  
COUNTY OF WEBER )

On the 12 day of June, 2006, personally appeared before me Mary Ann Kirkland, President and Nancy Baker, Secretary who being by me duly sworn did say that they are the President and Secretary of The Crest Homeowners Association, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Officers and said they duly acknowledge to me that said corporation executed the same.



Nancy S. Cervantez  
NOTARY PUBLIC, Residing at  
Weber County, Utah

My Commission Expires:  
04/14/08

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

All of Lots 1 through 17, contained within Heritage Cove P.R.U.D., Plat A, as the same is identified in the Plat recorded as Entry No. 1508351, in Book 45 at Page 86 of the official records of the Weber County Recorder.

*08-296-0001 - 0017 X*

All of Lots 18 through 45, contained within Heritage Cove P.R.U.D., Plat B, as the same is identified in the Plat recorded as Entry No. 1508352, in Book 45 at Page 87 of the official records of the Weber County Recorder.

*08-297-0001 - 0028 X*

All of Lots 46 through 78, contained within Heritage Cove P.R.U.D., Plat C, as the same is identified in the Plat recorded as Entry No. 1508353, in Book 45 at Page 88 of the official records of the Weber County Recorder.

*08-298-0001 - 0031 X*

**EXHIBIT "B"**

**DETENTION EASEMENT**

*08-298-0033*

BEGINNING at a point North 89°52'11" East, 1,423.33 feet and North 693.02 feet from the Southwest Corner of Section 12, Salt Lake Base and Meridian; thence North 21°29'23" East, 119.89 feet, thence North 54°45'50" East, 24.13 feet; thence South 59°04'45" East, 135.28 feet to a point on a 2015.01 radius curve to the left (center bears South 70°04'17" East, 2015.01 feet); thence along said curve 65.62 feet to a point on a 15.50 foot radius curve to the right (center bears North 71°56'15" West, 15.50 feet); thence along said curve 21.28 feet; thence North 83°17'39" West, 142.75 feet to the point of BEGINNING.

**EXHIBIT "C"**  
**BY-LAWS**  
**OF**  
**THE CREST HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I

PLAN OF LOT OWNERSHIP AND INCORPORATION

1. Submission. These By-Laws shall govern the administration of the Common Areas and facilities at Heritage Cove P.R.U.D., (also doing business as THE CREST P.R.U.D.), Subdivision and the Association.
2. Office and Registered Agent. The President of the Association is the person to receive service in the cases authorized by the Act and the office. The initial Registered Agent is Mary Ann Kirkland and the initial office of the Registered Agent is 1779 Grove Hideaway, Roy, Utah 84067.

ARTICLE II

ASSOCIATION

1. Composition. The Association of lot owners is a mandatory association consisting of all owners at THE CREST, a.k.a. Heritage Cove P.R.U.D.
2. Place of Meeting. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Management Committee from time to time and stated in the notice of meeting.
3. Notice of Meeting. It shall be the duty of the Secretary to had deliver or mail to each owner at his known address, by regular U.S. mail postage prepaid, notice of (a) each annual meeting of the Association not less than ten (10) days and not more than thirty (30) days in advance of such meeting. The notice shall state the purpose, day, date, time and place of the meetings. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.
4. Qualified Voters. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if, and only if, he shall be in full compliance with all of the terms, covenants, and conditions of the Project Documents,

and shall have fully paid his share of the Common Expenses and all Assessments and/or Additional Charges due.

5. Proxies. The votes appertaining to any Lot may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Lot Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically (a) if the Owner attends the meeting in person, (b) it is revoked in writing and written notice of the revocation is given to the Secretary of the Association prior to the meeting, and (c) upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Association prior to the meeting. Only individual Owners or the legal representative of an institutional Owner may be proxies.

6. Quorum Voting. Sixty (60.0%) percent of the members of the Association shall constitute a quorum for the adoption of decisions. If however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, resent in present or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than two days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an oral announcement at the meeting to be rescheduled. Those Owners present, either in person or by proxy, thirty (30.0%) percent at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Owners representing a majority of the members of the Association in person or by proxy, shall decide any question brought before the meeting. If the Declaration requires a fixed percentage of Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.

7. Order of Business. The order of business at all meetings of the Association shall be as follows:

- a. roll call;
- b. proof of notice of meeting;
- c. reading of minutes of preceding meeting;
- d. reports of officers;
- e. report of special committees, if any;
- f. election of inspectors of election, if applicable;
- g. election of Committee Members, if applicable;
- h. unfinished business; and
- i. new business.



8. Conduct of Meeting. The President shall, or in his absence the Vice-President, preside over all meetings of the Association; and the Secretary shall keep the minutes of the meetings as well as record of all transactions occurring thereat.

9. Open Meeting Policy. All Management Committee meetings shall be open to all voting members, but attendees other than members of the Management Committee may not participate in any discussion or deliberation unless a majority of a quorum requests that they be granted permission to speak. In such case, the President may limit the time any such individual may speak.

10. Action May Be Taken Without A Meeting. Any action to be taken at the meeting of the Management Committee or any action that be taken at a meeting of the Management Committee may be taken without a meeting if a consent in writing, setting for the action so taken, shall be signed by all the members of the Management Committee. An explanation of the action taken shall be posted at a prominent place or places within the Common Area with three (3) days after the written consents of all of the members of the Management Committee have been obtained.

11. Executive Session. The Management Committee, with approval of a majority of a quorum, may adjourn a meeting and reconvene an executive session to discuss and vote upon personnel matters, litigation or threatened litigation in which the Association is or may become involved, and orders of business of a privileged, confidential, sensitive or similar nature. The nature of any and all business to be considered in an executive session shall first be announced in open session.

### ARTICLE III

#### MANAGEMENT COMMITTEE

1. Powers and Duties. The affairs and business of the Association shall be managed by the management Committee consisting of five (5) Lot Owners. The Management Committee shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and may do all such acts and things necessary to operate and maintain the Project. The Committee shall have the power from time to time to adopt any Rules and Regulations deemed proper for the exercise of its management powers. The Committee may delegate its authority to a manager or managers. Subject to any limitations or provisions contained in the Declaration, the Committee shall be responsible for at least the following:

- a. Preparation of the budget.
- b. Establishing each Owner's share of the common expenses.
- c. Assessing the Owners.

d. Providing for the operation, care, upkeep, replacement, maintenance, and regulation of all the Common Areas and Facilities, including the secondary water system and pump.

e. Establishing and maintaining bank accounts.

f. Enforcing by legal means the Project Documents.

g. Purchasing and maintaining insurance.

h. Paying the cost of all services rendered to the Project and not billed directly to Owners or individual Lots.

i. Keeping books and records.

j. Providing utility services to the common areas and facilities.

k. Doing such other things and acts necessary to accomplish the foregoing and not inconsistent with the Declaration or By-Laws, or to do anything required by a proper resolution of the Management Committee or Association.

2. Composition of Management Committee. The Management Committee shall be composed of five (5) members.

3. Election and Term of Office of the Committee. The term of office of membership on the Management Committee shall be two (2) years. At the expiration of the member's term, a successor shall be elected.

4. First Meeting. The first meeting of the members of the Management Committee shall be immediately following the annual meeting of the Association or at such other time and place designated by the Committee.

5. Regular Meetings. Regular meetings of the Management Committee shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Committee, but no less often than quarterly.

6. Special Meetings. Special meetings of the management Committee may be called by the President, Vice President or a majority of the members on at least forty-eight (48) hours prior notice to each member. Such notice shall be given personally, by regular U.S. Mail postage prepaid, or by telephone, and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Committee shall be valid for any and all purposes.

7. Waiver of Notice. Before or at any meeting of the Management Committee, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Committee shall constitute a waiver of notice. If all the members are present at any meeting of the Committee, no notice shall be required and any business may be transacted at such meeting.

8. Committee's Quorum. At all meetings of the Management Committee, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of all the Committee members present at a meeting at which a quorum is present shall be deemed to be the acts of the Committee. If, at any meeting of the Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no longer than two days. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

9. Vacancies. Vacancies in the management Committee caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Committee at a special meeting of the Committee held for that purpose promptly after occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the committee; and each person so elected shall be a member for the remainder of the term of the member so replaced. A vacancy created by the removal of a member by a vote of the Association shall be filled by the election and vote of the Association.

10. Removal of Committee Member. A member of the Management Committee may be removed with cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty (30) days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Any Committee Member who misses twenty-five (25%) or more of the Committee Meetings or who misses three (3) consecutive meetings, in any calendar year, shall be automatically removed from the Committee.

11. Conduct of Meetings. The President shall preside over all meetings of the Committee and the Secretary shall keep a Minute Book of the Committee recording therein all resolutions adopted by the Committee and a record of all transactions and proceedings occurring at such meetings.

12. Report of Committee. The Committee shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and conditions of the Association.

#### ARTICLE IV

##### OFFICERS

1. Designation. The principal officers of the Association shall be a President, Vice-President, a Secretary and a Treasurer, all of whom shall be elected by the Committee. The Committee may appoint assistant secretaries and such other officers as in its judgment may be necessary. All officers shall also be members of the Committee. Two or more offices may be held by the same person, except that the President shall not hold any other office.

2. Election of Officers. The officers of the Association shall be elected annually by the Committee at the first meeting of each Committee immediately following the annual meeting of the Association and shall hold office at the pleasure of the Committee. Any vacancy in an office shall be filled by the Committee at a regular meeting or special meeting call for such purpose.

3. Removal of Officers. The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Committee may be removed at any time by the affirmative vote of a majority of the Committee, and his successor may be elected at any regular meeting of the Committee, or at any special meeting of the Committee called for such purposes.

4. President. The President shall be the chief executive officer; he shall preside at meetings of the Association and the Committee shall be an ex-officio member of all committees; he shall have general and active management of the business of the Committee and shall see that all orders and resolutions of the Committee are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the use of president of a corporation organized under the laws of the State of Utah.

5. Vice-President. The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Committee or the President shall prescribe. If neither the President nor the Vice-President is able to act, the Committee shall appoint a member of the Committee to do so on an interim basis.

6. Secretary. The Secretary shall attend all meetings of the Committee and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him for that purpose and shall perform all duties for committees when required. He shall give, or cause to be given, notices for all meetings of the Association and the Committee and shall perform such other duties as may be prescribed by the Committee. The Secretary shall compile and keep current at the principal office of the Association, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Committee including resolutions.

7. Treasurer. The Treasurer shall have custody of all funds and securities that are not under the control of the Managing Agent, and with the assistance of the Managing Agent, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Committee. He shall disburse funds as ordered by the Committee, taking proper vouchers for such disbursements, and shall render to the President and members, at the regular meetings of the Committee, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Project.

ARTICLE V

FISCAL YEAR

The fiscal year of the Association shall be the calendar year consisting of the twelve (12) month period commencing on January 1 of each year terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Committee should it be deemed advisable or in the best interest of the Association.

ARTICLE VI

INVESTMENT OF COMMON FUNDS

Common funds may only be deposited into institutions which are federally insured. Common funds shall be deposited in savings or money market accounts, or to purchase certificates of deposit. Other higher-risk investments, with a potential higher-rate-of-return, such as stocks, bonds, mutual funds and U.S. treasuries and the like, may only be used with the prior express written and affirmative consent of at least seventy-five (75%) percent of the Owners, all eligible mortgagees, and if any financing or the guaranty of any financing on a Lot or Dwelling Unit is provided by the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veterans Affairs, (VA).

ARTICLE VII

AMENDMENT TO BY-LAWS

1. Amendments. These By-Laws may be modified or amended either (a) by the affirmative vote of two-thirds (2/3) of the members of the Association or (b) pursuant to a written instrument of consent duly executed by a majority of the members of the Association provided all of the written consents are obtained within a ninety (90) day period.

2. Recording. An amendment of these By-Laws shall become effective immediately upon recordation in the Office of the County Recorder of Weber County, State of Utah.

ARTICLE VIII

NOTICE

1. Manner of Notice. All notices, demands, bills, statements, or other communications provided for or required under these By-Laws (except as to notices of Association meetings which were previously addressed in Article II of these By-Laws) shall be in writing and shall be deemed to have been duly given if delivered personally or sent by regular U.S. Mail postage pre-paid, a) if to an Owner, at the address of his Lot and at such other address as the Owner may have designated by notice in writing to the Secretary; or b) if to the Committee or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owner pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Declaration.

ARTICLE IX

COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control.

2. Waiver. No restriction, condition, obligation, or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

3. Captions. The captions contained in these By-Laws are for convenience only and are not part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws.

4. Interpretation. Whenever in these By-Laws the context so requires, the singular number shall refer to the plural and the converse; and the use of any gender shall be deemed to include both masculine and feminine; and the term "shall" is mandatory while the term "may" is permissive.

5. Severability. The validity of any one or more phrase, sentences, subparagraphs, subsections or sections hereof shall not affect the remaining portions of this instrument or any part thereof, and in the event that any portion or portions of this document should be invalid or should operate to render this document invalid, this

document shall be construed as if such invalid phrase or phrases, sentence or sentences, subparagraph or subparagraphs, paragraph or paragraphs, subsection or subsections, or section or sections had not been inserted.

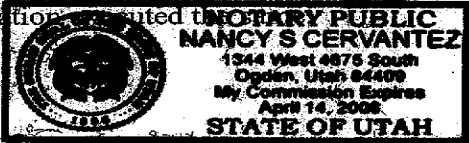
EXECUTED the 13<sup>th</sup> day of June, 2006.

**THE CREST HOMOWNERS ASSOCIATION**

By Mary Ann Kirkland Its President      By Nancy Baker Its Secretary

STATE OF UTAH                    )  
  :SS  
COUNTY OF WEBER            )

On the 12 day of June, 2006, personally appeared before me Mary Ann Kirkland, President and Nancy Baker, Secretary who being by me duly sworn did say that they are the President and Secretary of The Crest Homeowners Association, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Officers and said they duly acknowledge to me that said corporation executed the



Nancy S. Cervantez  
NOTARY PUBLIC, Residing at  
Weber County, Utah

My Commission Expires:  
04/14/08