

9-9.

**DECLARATION OF PROTECTIVE COVENANTS  
for  
QUAIL CREST SUBDIVISION**

**KNOW ALL MEN BY THESE PRESENTS:**

THAT WHEREAS, the undersigned collectively being the owners of the following described real property situated in Salt Lake County, State of Utah, more particularly described as follows:

All of Lots 1-10 of Quail Crest Subdivision, according to the official plat thereof on file and of record in the office of the Salt Lake County Recorder.

In consideration of the premises and part of the general plan for improvement of the property comprising QUAIL CREST SUBDIVISION, the undersigned does hereby declare the property herein above described, subject to the restrictions and covenants herein recited.

**PART A**

**RESIDENTIAL AREA COVENANTS**

1. Planned Use and Building Type

No Lot shall be used except for residential purposes. No dwelling shall be erected, altered, placed or permitted to remain on any Lot other than a detached single-family dwelling not to exceed two stories in height and a private garage for at least three (3) vehicles.

2. Architectural Control

- (a) No building shall be erected, placed or altered on any Lot until the construction plans, including a site plan, have been approved by the Board of Directors (the "Board") of the QUAIL CREST HOMEOWNERS ASSOCIATION (the "Association") as to harmony of external design with existing structures, and the location with respect to topography and finish grade elevation. One (1) set of plans must be submitted to the Board for this purpose.
- (b) In the event the Board or its designated representative fails to approve or disapprove within ten (10) days after plans and specifications have been submitted, approval will not be required and related covenants shall be deemed to have been fully complied with.

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RECORDER, SALT LAKE COUNTY, UTAH

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### 3. Dwelling

- (a) No dwelling shall be permitted wherein the floor area, exclusive of open porches and garage, is less than 2,500 square feet for a single story home. Multi-level homes must have an aggregate footage of above ground floors of 3,250 square feet. No home shall be constructed with a front elevation of less than 60 feet in width including the garage. The Board shall have, at its sole discretion, the right to approve homes of up to five percent (5%) less square footage.
- (b) For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building to encroach upon any other Lot, or to violate any building code in effect at the time of construction.
- (c) All dwellings shall be required to have exterior finishes of brick, stone veneer, stucco, or cement siding (Hardi Plank), with stucco and cement siding to be of a subdued color. Roofing shall be an architectural grade shingle with a roof pitch of at least 7/12. However, the Board shall have, at its sole discretion, the right to approve a lower pitch in order to accommodate a unique roof design, but not to exceed twenty-five percent (25 %) lower pitch. Aluminum, copper, or steel trim materials may only be used for soffit, fascia and accent

### 4. Building Location and Requirements

- (a) No dwelling shall be located on any Lot nearer than thirty (30) feet to the front property line and no nearer than thirty (30) feet to the side street Lot line. No fence or wall shall be erected, placed on any Lot nearer to any property line than the minimum building setback line. On a corner Lot the fences cannot be closer than twenty (20) feet to one property line/sidewalk and thirty (30) feet on the other.
- (b) No dwelling shall be located nearer than ten (10) feet to an interior Lot line and the total width of the two required side yards shall not be less than twenty-four (24) feet. No residence shall be nearer than thirty (30) feet to the rear Lot line.
- (c) Unattached garages and utility buildings shall not be constructed within ten (10) feet of any property line and shall not have exterior walls more than sixteen (16) feet in height from finish grade to eaves. The exterior of such structures are have an appearance that is similar to the residence.
- (d) The grantee or grantees of any building Lot (hereinafter "Owner") is responsible to repair or replace and sidewalk or curb that had been broken or damaged after purchase date of the Lot. The Owner will escrow \$750.00 per Lot with the title company at closing of purchase of the Lot to insure the payment of such costs.

5. Construction Time Following Purchase

The Owner of any building Lot within the subdivision shall commence construction within eighteen (18) months of the purchase date from Declarant. If construction does not commence after eighteen (18) months, the Owner shall be responsible to landscape the first twenty (20) feet of the Lot that has exposure to the street (weather permitting). Once the Owner has commenced construction upon said property, the Owner shall continue therewith and have the structure upon the property ready for occupancy as a residence within twelve (12) months from the date construction is commenced.

6. Easement

An easement for installation of and maintenance of utilities and drainage are reserved as shown on the recorded plat. Within these easements, no structure, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. The easement area of each of the Lots shall be landscaped and maintained continuously by the owner of the Lot.

7. Nuisances

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. The storage of any articles, which are unsightly, in the opinion of the Board, will not be permitted, unless enclosed in areas built and designed for such purposes. Automobiles, trailers, boats or other vehicles are not to be stored on streets, in front of homes or in unfenced side yards that are exposed to streets.

8. Temporary Structures

No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other building shall be used on any Lot at any time as a residence either temporarily or permanently.

9. Garbage and Refuse Disposal

- (a) The Owner is responsible during the construction of a home to see that all construction debris is contained in a dumpster and regularly removed from the building site. Sidewalks, curb and gutter are to be swept clean when construction is finalized.
- (b) No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All incinerators or other equipment for storage or disposal of such material shall be kept in a clean and sanitary condition. Each Lot and its abutting street are to be kept free of trash, weeds and other refuse by the Lot owner. No unsightly material or objects are to be stored on any Lot in view of the general public.

10. Animals and Pets

- (a) Dogs, cats, or other household pets, may be kept as permissible within current zoning regulations provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's premises and under handlers control.
- (b) If, in the opinion of the Board, any of the forenamed pets become an annoyance, nuisance or obnoxious to the other owners throughout the subdivision, the Board may require a reduction in the number of pets permitted or removal of any such pet considered dangerous or unsafe to the neighbors.

11. Landscaping

Each Lot (front and side yards) is to be landscaped within twelve (12) months from the date the home receives final inspection approval (weather conditions permitting). Trees, lawns, shrubs, or other plantings provided by the Owner of each respective Lot shall be properly nurtured and maintained continuously or replaced at the property owner's expense upon request of the Board. Prior to landscaping, the Owners of each Lot shall submit a landscape plan to the Architectural Control Committee for approval. Landscape plan shall be submitted within six (6) months from the date the home receives final inspection approval.

**PART B**

**THE QUAIL CREST HOME OWNERS ASSOCIATION**

1. Membership

Every person or entity who is the record Owner of fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to 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. The forgoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owners membership. No Owner, whether one or more persons, shall have more than one (1) membership per Lot owned. In the event the owner of a Lot is more than one person or entity, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a member or members spouse, but in no event shall more than one (1) vote be cast for each Lot.

2. Voting Rights of Members

- (a) Members shall have the voting rights set forth in the Articles and Bylaws of the Association and as further enumerated herein.
- (b) Members shall be entitled to one (1) vote for each Lot in which they hold the interest required. Members shall be entitled to vote on all matters upon which the members are entitled to vote.
- (c) Notwithstanding the forgoing provisions of this Section 2, Quail Crest Land LLC shall have the power and authority to cast all votes for all memberships until the happening of any of the following events, whichever occurs earlier:
  - (i) upon the sale and closing of the last Lot in the subdivision owned by Quail Crest Land LLC, or its successors in title that are home builders;
  - (ii) January 1, 2020, or
  - (iii) when, in its sole discretion, Quail Crest Land LLC so determines.

### 3. Scope of Responsibilities

- (a) The Quail Crest Home Owners Association is responsible to maintain or cause to be maintained the planting area in the center island turn-around. This will include the regular upkeep (i.e.) watering, cutting, pruning and fertilizing; and the replacement if necessary, of the plants, and to make necessary repairs to the entry walls. The Association will make an annual assessment to each member for these expenses. This assessment will be a binding legal obligation of each member.
- (b) The Association is responsible to maintain or cause to be maintained the asphalt of the private lane. The Association may establish and fund a reserve to cover major repairs or replacement of improvements on the private lane under its supervision and to provide snow removal on this private lane. This assessment will be a binding legal obligation of each Member. With respect to any assessment for the private lane, any such assessment must be assented to by six (6) of the ten (10) votes which members are present in person or represented by proxy are entitled to cast at a meeting duly called for the purpose. Notice, quorum, and other requirements for any such meeting are governed by the Bylaws of the Association.
- (c) The Association is responsible to maintain its own ongoing corporate existence. It may establish and fund a reserve to cover major repairs or replacement of improvements under its supervision and expend funds as necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration. It may also employ accountants, attorneys, or other agents as necessary to carry out its functions as set forth in this Declaration or its Articles and Bylaws, and to carry out such other responsibilities as are reasonable and necessary to its purposes and existence. Reasonable and necessary expenses to these purposes may be incurred, and

the Association will make an annual assessment to each member for these expenses. This assessment will be a binding legal obligation of each member.

4. Assessments

- (a) Each member shall, by acquiring or in anyway becoming vested with his or her interest in a Lot, be deemed to covenant and agree to pay to the Association the annual and the special assessments provided for in this Declaration, together with the hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain: (i) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (ii) the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due.
- (b) The Association may levy special assessments for the purpose of defraying, in whole or in part: (i) any expense or expenses not reasonably capable of being paid with funds generated by annual assessments; or (ii) the cost of any construction, reconstruction, or unexpectedly required repair or replacement of an improvement on property over which the Association bears responsibility. Any such special assessment must be assented to by five(5) of the eight (8) votes, which Members are present in person or represented by proxy are entitled to cast at a meeting duly called for the purpose. Notice, quorum, and other requirements for any such meeting are governed by the Bylaws of the Association.
- (c) Annual assessments are due on the date set by the Association, and Owners shall be notified in writing by the Association at least fifteen (15) days prior to the effective date of any change in amount of the annual assessment.
- (d) 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. Effect of Nonpayment – 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 Lot. The person who is the Owner of the Lot at the time the assessment falls due shall be and remain personally liable for payment. Such personal liability shall not pass to the Owner's successor in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at rate of ten percent 10% per annum compounded monthly, and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the Lot. Any judgment obtained by the Association shall include reasonable attorneys' fees, court costs, and

each and every other expense incurred by the Association in enforcing its rights. The rights set forth in this herein are in addition to any other rights provided at law or equity.

## **PART C**

### **GENERAL PROVISIONS**

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 given as required by the Bylaws of the Association for notice to Owners or Members.

2. Rules and Regulations

The Association shall have the authority to promulgate and enforce such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interests of the Owners.

3. Amendment

Any amendment to this Declaration shall require: the affirmative vote of six (6) of the ten (10) votes, which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Notice, quorum, and other requirements for any such meeting are governed by the Bylaws of the Association.

4. Consent in Lieu of Vote

In any case in which this Declaration requires for authorization or approval of a transaction, the assent or affirmative vote of a simple majority of votes present or represented at a meeting, consents in writing to such transaction from Members entitled to cast at least the stated majority of all membership votes outstanding.

5. 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. Whatever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall

include both genders. The validity or unenforceability of any portion of this Declaration shall be liberally construed to effect all its purposes.

6. Covenants to Run with Land

This Declaration and all the 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 own or hereafter acquire any interest in a Lot, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns perpetually to the extent permitted by law; provided, however, so long as Utah law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, and such provisions may be renewed or extended, in whole or in part, beyond the initial period permitted by such law for successive periods not to exceed the period permitted by such law, provided such renewal or extension is approved by at least a majority of the votes of Members of the Association present or represented by proxy are entitled to cast at a meeting duly called for such purpose. Further, no such renewal or extension shall be effective unless there is filed for record in the office of the County Recorder of Salt Lake County, Utah, on or before the effective date thereof an instrument executed by the President and Secretary of the Association which shall state the terms of such renewal or extension and which shall contain a certification by such Secretary that such extension and renewal was duly approved by Members of the Association. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

7. Enforcement

Enforcement of the foregoing shall be by proceeding at law or equity against every person, persons, or entity violating or attempting to violate any covenants herein, whether to restrain with jurisdiction, may restrain violation with covenants, as well as award damages incurred thereby, including a reasonable attorney fee to the person or Association enforcing the same.

8. Severability

Invalidation of any one of these covenants by judgment of court order shall in no wise effect any of the other provisions, which shall remain in full force and effect.



9. 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 Salt Lake County, Utah.

DATED this 27 day of February, 2017

QUAIL CREST LAND LLC

By: [Signature]  
Its: Manager

STATE OF UTAH            )  
  : ss.  
COUNTY OF SALT LAKE )

On the 27th day of Feb., 2017, personally appeared before me Megan Millet, the principle of Quail Crest Land LLC, who being by me duly sworn ~~did~~ say that he executed the foregoing instrument in behalf of Quail Crest Land LLC.

Megan Millet

