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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
CRESTHAVEN VILLAGE HOMEOWNER'S ASSOCIATION, INC.**

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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
CRESTHAVEN VILLAGE HOMEOWNER'S ASSOCIATION, INC.**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS for CrestHaven Village Homeowner's Association, Inc., (hereafter this "Declaration") is made as of the 7th day of July, 2010, by First Utah Bank, a Utah corporation (hereafter the "Declarant").

**ARTICLE I
RECITALS**

WHEREAS, the Declarant is the owner of certain land situated in the City of Lehi, County of Utah, State of Utah, more particularly described on the attached Exhibit A (hereafter the "Property" or "Subdivision"):

WHEREAS, the Declarant desires to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitudes set forth in this Declaration to (i) insure the enhancement and preservation of property values, (ii) provide for the proper design, development, improvement and use of the Property by the Declarant and all other persons or entities who may subsequently acquire an interest in the Property consistent with a general plan approach, and (iii) create a residential development of high quality;

WHEREAS, in order to achieve the objectives and desires of the Declarant, the Declarant will control the management and government of the Property and the non-profit association of Owners to be created until such time as the Owners take over the management functions through the Association and in accordance with the management transfer conditions more particularly set forth in this Declaration; and

WHEREAS, all of the land located within the Subdivision is also a part of the Traverse Mountain Master Association and subject to the Master Declaration as has been or may be amended from time to time.

**ARTICLE II
DECLARATION**

The Declarant hereby submits the Property to the provisions of this Declaration and declares that the Property and each lot, tract or parcel thereof is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following covenants, conditions, restrictions, easements, reservation, limitation and equitable servitudes (hereafter collectively called "Covenants and Restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the subdivision, protection, maintenance, improvement and sale of the Property or any Lot therein, and to enhance the value, desirability and attractiveness thereof. The Covenants and Restrictions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title

or interest in the Property and any Lot therein; and shall inure to the benefit of and be binding upon the Declarant and its successors-in-interest, and may be enforced by the Declarant, or by any Owner, or by the Association (as hereafter defined).

Notwithstanding the foregoing, no provision of this Declaration shall be construed or enforced to prevent or limit the Declarant's right to complete development of the Property in accordance with the plan therefore as the same exists or may be modified from time to time by the Declarant nor prevent normal construction activities during the construction of Improvements upon any Lot in the Subdivision. No development or construction activities shall be deemed to constitute a nuisance or violation of the Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs of similar activities, provided that the same are actively, efficiently and expeditiously pursued to completion. In the event any dispute concerning the foregoing shall arise, a temporary waiver of the applicable provision(s) of the Declaration may be granted by the Board provided that such waiver shall be for a reasonable period of time. Any such waiver need not be recorded and shall not constitute an amendment of this Declaration.

If there is any conflict or inconsistency between this Declaration and either the Articles of Incorporation or the Bylaws of the Association, then the terms and provisions of this Declaration shall prevail. The provisions of this Declaration shall supplement, but shall not supersede, provisions of the Master Declaration. Nothing herein shall be construed as relieving any Owner or Lot within the Subdivision from the covenants, conditions or Restrictions contained in the Master Declaration, or as limiting or preventing any rights or enforcement granted or available to the Master Association by virtue thereof.

In the event of any conflicts between the provisions of this Declaration and the requirements of the Master Declaration or the ordinances of the City of Lehi, Utah or any municipality which may annex any portion of said project (as to that portion or portions), the more restrictive provisions shall control.

ARTICLE III DEFINITIONS

As used in this Declaration, unless otherwise specified or unless the context otherwise requires, the following words and phrases shall be defined as follows:

1. Annexation: The process by which additional tracts or parcels or land, including platted lots improved with townhomes, dwellings, not initially a part of the Property are made subject to this Declaration.
2. ARC: The Aesthetic Review Committee created pursuant to Article IV of the Master Declaration.
3. Assessment: A payment required of Association members, including Regular, Special or Limited Assessments as provided in this Declaration.

4. Association: The Utah non-profit corporation organized by the Declarant known as CrestHaven Village Homeowner's Association, Inc. and existing for the purpose of providing self government for the Property as set forth in this Declaration. The Association constitutes a sub-association within the Master Association.
5. Association Maintenance Areas: Those common areas and limited common areas, as shown on the Plat.
6. Basement: Any living area which is more than 4 feet below the average adjacent grade.
7. Board: The duly elected and qualified board of Directors of the Association.
8. Bylaws: The Bylaws of CrestHaven Village Homeowner's Association, Inc., including any amendments thereto duly adopted.
9. City: City of Lehi.
10. County: Utah County, State of Utah.
11. Common Areas: Common Areas: Those common areas as shown on the Plat, including but not limited to, all property owned by the Association for the common use and enjoyment of the Owners such as the clubhouse, swimming pool, playground, open spaces, undedicated roads, guest parking, the roof and extension of the Townhomes and the like, together with all easements appurtenant thereto.
12. Declaration: This instrument as it may be amended from time to time.
13. Development: The project to be undertaken by the Declarant resulting in the improvement of the Subdivision or any additional property annexed hereunder.
14. First Mortgage: A mortgage or deed of trust that encumbers a Lot to secure the performance of an obligation or the payment of a debt and which is required to be released upon the performance of the obligation or payment of the debt and that has priority over all other consensual liens that encumber the Lot.
15. First Mortgagee: Any mortgagee under a mortgaged or beneficiary under a deed of trust constituting a First Mortgage.
16. Governing Documents: Those documents governing the use and enjoyment of the Subdivision or any part thereof and shall include the Articles, Bylaws, Declaration, Master Declaration and Rules and Regulations.
17. Improvements: All structures and appurtenances thereto of all kinds and types, including but not limited to, Townhomes, Common Areas, roads, driveways, storm drains, water systems, sprinkler pipes, parking lots, sidewalks, walkways, walls, fences, screens, landscaping,

recreational equipment, poles, signs and lighting. Improvements shall not include those items which are located totally on the interior of a Unit and cannot be readily observed when outside thereof.

18. Initial Construction: The first construction of permanent Improvements on a Lot.
19. Limited Assessment: An Assessment levied by the Association upon one or more Lots, but not upon all Lots within the Subdivision, for the purpose of securing payment by the Owner(s) thereof of amounts expended by the Association to correct a prohibited condition or to cure an Owner's breach hereunder, including fines or penalties imposed, after notice and a hearing, for violation of the Association's governing documents.
20. Limited Common Areas: Any Common Areas designated for exclusive use and enjoyment by the Owner of a particular unit.
21. Lot: A portion of the Property which is a legally described tract or parcel of land within the Subdivision or which is designated as a Lot on any recorded subdivision plat relating to the Property.
22. Master Association: The Traverse Mountain Master Association, a Utah non-profit corporation, its successors and assigns.
23. Master Declaration: The Master Declaration of Covenants, Conditions, Restrictions And Reservation Of Easements For Traverse Mountain A Master Planned Community recorded 31 August 2001 as Entry Number 88405:2001 as amended by that Amendment thereto recorded 2 July 2004 as Entry Number 76498:2004 and as the same may be subsequently amended pursuant to the original terms thereof.
24. Master Declarant: Mountain Home Development Corporation, a Utah corporation, its successors and anyone to which it shall have assigned any rights hereunder by express written assignment. Any such assignment may include some or all of the rights of the Master Declarant and may be subject to such purposes, conditions, or limited as Master Declarant may impose in its absolute and sole discretion. As used in this definition "successor" mean anyone who acquires Master Declarant or substantially all of its assets, or who merges with Declarant, by sale, merger, reverse merger, consolidation, sale of stock or assets, by operation of law or otherwise.
25. Member: Declarant and any person(s) who is/are an Owner of a Lot within the Subdivision.
26. Occupant: Any person, association, corporation or other entity who or which is an Owner, or has leased, rented, been licensed, or is otherwise legally entitled to occupy and use any Townhouse or Improvement on a Lot whether or not such right is exercised, including their heirs, personal representatives, successors and assigns.
27. Owner: A person or persons or other legal entity or entities, holding fee simple title to a Lot in the Subdivision, including contract sellers, but excluding those having such

interest merely as security for the performance of an obligation, but including any mortgagee (or any priority) or other security holder provided said mortgagee or other security holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person taking title through such mortgagee or other security holder by purchase at foreclosure sale or otherwise. Declarant is also an Owner.

28. Plat: A final subdivision plat covering any real property in the Subdivision, as recorded in the office of the County Recorder, Utah County, Utah, as the same maybe amended by duly recorded amendments thereto.

29. Regular Assessment: An assessment levied by the Association to provide funds to pay the ordinary estimated expense of the Association.

30. Rules and Regulations: Such polices, rules and regulations (as more particularly provided for and described below) with respect to the interpretation and implementation of the Declaration, use of Common Area, and use of any property within the Subdivision, including Lots; provided, however, that such Rules and Regulations shall be enforceable only to the extent that they are consistent with this Declaration, the Master Declaration, the Articles and Bylaws.

31. Special Assessment: An assessment levied by the Association other than a Regular or Limited Assessment and as more particularly described in Article VIII, Section 3 of this Declaration.

32. Subdivision: The whole of the Property and any additional land annexed thereto as provided herein, including any such additional land as may be platted and annexed hereunder under a different name (also sometimes referred to herein as "Property").

33. Subdivision Plan: Shall mean the development plan for the Property (as amended and expanded from time to time to include additional property annexed to the Subdivision and to accommodate reasonable variations from the original master concepts for subdivisions within the Property and to meet the requirements of governmental authorities having jurisdiction over the development of the Property), which development plan has been created by the Declarant, reviewed by and conceptually accepted by appropriate governmental authorities and includes a townhome residence subdivision. Modification of the Subdivision Plan shall be within the sole discretion of the Declarant subject to the requirement that any such modifications shall not result in a material inconsistency in property use or material departure from the essential concept of the community encompassed by the Subdivision.

34. Townhome: A single family dwelling that is attached to one or more single family dwellings.

35. Unit: A Lot or Townhome.

ARTICLE IV PURPOSE

The Property is hereby made subject to the Covenants and Restrictions contained in this Declaration, all of which shall be deemed to be imposed upon and run with the land and each and every Unit and parcel thereof, and shall apply to each and every Owner and Occupant thereof and their respective successors-in-interest and assigns, to insure the proper design, development, improvement, use and maintenance of the Property for the purpose of:

- (a) Enforcing quality of design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Units and Improvements;
- (b) Preventing the erection in the Subdivision of Improvements of improper design or construction with improper or unsuitable materials or with improper quality and method of construction;
- (c) Insuring the erection of quality and attractive Improvements appropriately located within the Property to assure visual quality and harmonious appearance and function;
- (d) Encouraging attractive landscaping and the conservation of existing natural features with minimum adverse impact on the ecosystem;
- (e) Taking advantage of and utilizing, for purposes of promoting all of the foregoing and further enhancing the value and quality of each Owner's and each Occupant's interest in the Subdivision or in any Unit therein, a planned residential community concept accommodating a diversity of residential designs with a common and harmonious community plan;
- (f) Providing certain facilities, services and other benefits to the Owners including without limitation yard care and snow removal services for the Association Maintenance Areas as appropriate to the nature of the improvements thereon;
- (g) Administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby;
- (h) Levying, collecting and enforcing the Assessments, charges and liens imposed pursuant hereto and other documents imposing obligations on the Units.
- (i) Taking any action that it deems necessary or appropriate to protect the interests and general welfare of Owners; and
- (j) Any other purpose permitted by law.

As used hereafter, "Project Objectives" shall mean the foregoing specified purposes. Each purpose specified herein is an independent purpose and is not to be restricted by reference to or inference from the terms of any other purpose.

ARTICLE V PERMITTED USES AND PERFORMANCE STANDARDS

1. **Use.** Lots shall be used only for Townhome residential purposes and such uses as are customarily incidental thereto.

2. **Townhomes.** The Subdivision Plan contemplates that the Lots shall be improved with Townhomes. Each dwelling unit shall have an attached enclosed garage. No parking pads shall be allowed on end Units. The minimum square footage requirements for each dwelling unit (excluding basements) within the Subdivision shall be 1100 square feet.

3. **Approval of Use and Plans.** The overall architectural style and detailing of each Improvement (including each Townhome) and the associated landscaping and site use is subject to review and approval of the Board. No Initial Construction, including any site preparation or excavation of the Lot or other preparatory construction of Improvements for such Initial Construction shall be undertaken, built, constructed, erected or placed on a Lot unless and until the plans, specifications and site plan therefor have been reviewed in advance and approved by the Board. After Initial Construction, no other work of construction, excavation, or alteration to the exterior of Improvements on a Lot shall be undertaken without obtaining the same advance approvals as required with respect to Initial Construction.

4. **Prohibited Buildings/Uses.** No trailer or other vehicle, tent, shack, garage, accessory building or out-building shall be used as a temporary or permanent residence. No noxious or offensive activities shall be conducted on any Unit nor shall anything be done or any use made thereon or thereof which maybe or become an unreasonable annoyance or nuisance to the Occupant(s) of the other Units within the Property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise. Nothing herein is intended to prohibit Declarant from placing a construction and/or sales trailer on a Lot or making reasonable use of construction equipment or otherwise undertaking efforts to develop the Subdivision.

5. **Antennae.** In order to preserve the aesthetic and visual integrity of the Subdivision, but subject to any contrary provisions of applicable law, no exterior radio antenna, television antenna, "C.B." antenna, over-the-air reception device, microwave transmitting or receiving antenna, or other antenna, transmitting or receiving device or any type, except a satellite dish (collectively "Antenna") shall be maintained anywhere within the Subdivision, except as more fully set forth below.

Any Antenna, equal to or less than one (1) meter in diameter, that falls within the scope of, or is otherwise covered by the Telecommunications Act of 1995, and the provisions of 47 C.F. R. 1.4000, as may be amended from time to time, or any subsequent federal or state law applicable to common-interest communities ("Approved Antenna"), shall be permitted upon any

Unit. Installation of any Approved Antenna shall comply with any and all requirements and guidelines adopted by the City of Lehi, as well as any and all approved Design Guidelines of the Master Association, or other applicable rules and guidelines adopted by the Board for the Association, including, but not limited to, any preferred placement locations; provided, however, that such rules and guidelines may not unreasonably increase the cost of installing, maintaining, or using the Approved Antenna, unreasonably delay installation of the service, or unreasonably interfere with the quality of reception. Notwithstanding the foregoing, the Board may prohibit the installation of any Approved Antenna if the installation, location or maintenance of such Antennae unreasonably affects the safety of Owners, or agents or employees of the Association or for any other safety related reasons.

The Board may prohibit the installation of any Antenna that does not fall within the scope of the Telecommunication Act of 1995 and the provisions of 47 C.F.R. 1.4000, as may be amended from time to time ("Unapproved Antenna"). In order for an Owner of any Unit to install an Unapproved Antenna, the Owner must submit a written request to the Board.

Notwithstanding anything in this Section to the contrary, a master antenna or cable television antenna may, but not need to be provided by Declarant, and Declarant may grant easements for the installation and maintenance or any such master or cable television service. This Section shall not apply to, nor restrict, master antennae, cable television antennae or head end system for any cable television system installed by Declarant or by a franchised or licensed cable television operator approved by Declarant, or to any Telecommunications Facilities (as defined in Section 1.65 of the Master Declaration) installed or approved by the Master Declarant; provided, however, the location of any master system or systems cannot violate any Design Guidelines, must be located whenever possible out of site, and must be appropriately housed and landscaped according to Design Guidelines.

6. **Public Rights of Way and Public and Private Easements.** Various public rights of way, public easements and private easements as hereinafter described, have been or are hereby reserved for the use and benefit of the Declarant and granted for the use and benefit of each Unit, and for the use and benefit of each Owner and Occupant, and for the use and benefit of the Association and/or the City, and their respective successors and assigns, for the purposes incident to such use, development and maintenance of the Property, in conformance with the following:

- (a) The public right of ways, public easements and private easements include the following as expressly granted or reserved herein or in such other documents of record with respect to the Property at the time this Declaration is recorded:
 - (i) The Common Areas in the project as shown on the Plats. Common Areas include the property designated for the common use and enjoyment of the Owners, such as the clubhouse, swimming pool, playground, open spaces, undedicated roads, etc. Common Areas also include the roofs and exteriors of the Townhomes. The Association will hold title to the Common Areas subject to covenants, conditions, restrictions, easements, encumbrances and liens created by or pursuant to this Declaration, and

subject to easements and rights of way of record. The rights to the use and enjoyment of the Common Areas shall be held in common by all of the Owners as Members of the Association and no Owner shall bring action for partition thereof. The ownership of an undivided interest in the Common Areas shall not be separated from the Unit to which it appertains and such undivided interest shall automatically accompany the conveyance of the Unit. The Association shall maintain the Common Areas in good repair and condition at all times and operate the same as its own expense in accordance with high standards.

- (ii) Limited Common Areas include any Common Areas designated for exclusive use and enjoyment by the Owner of a particular Unit. The right of exclusive use of a Limited Common Area shall not be separate from the Unit to which it appertains and such right of exclusive use shall automatically accompany the conveyance of the Unit. Each Owner shall keep the Limited Common Areas designed for use in connection with his Unit in a clean sanitary and attractive condition at all time. Certain Limited Common Areas may be maintained by the Association as determined by the Board.
- (iii) The private "T.M. Utility" easement (2 feet in width) running through the Association Maintenance Areas of the Lots as more particularly shown and described on the Plat reserved for the use of those private utilities and telecommunications providers authorized by subdivision, Mountain Home Development, its successors and assigns.
- (iv) An easement running in favor of Declarant and its agents, employees or independent contractors, to enter upon any portion of the Subdivision for the purposes of constructing or installing Improvements.
- (v) Reciprocal appurtenant easements of encroachment, not to exceed one foot (1'), as between each Lot and any property owned by the Association and/or the City adjacent thereto, or between adjacent Lots, due to the unintentional placement or settling or shifting of the Improvements including fences constructed thereon, which easements of encroachment shall be valid so long as they exist and the rights and obligations of Owners shall not be altered in any way by said encroachments, settling or shifting; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner.
- (vi) A blanket easement for drainage of ground water on, over and across the Property. No Owner shall construct, divert, alter or interfere in any way with the drainage of water upon, across or over any portion of the Property to the detriment of any other Owner. Each Owner shall, at its own expense, maintain the drainage ways and channels on his Lot in proper condition free from obstruction.

- (vii) Easements running in favor of the Association for the purpose of maintaining the Association Maintenance Areas as provided in Article VI below.
- (b) The easements provide for in Article V, Section 6(a) are to be maintained by the Association or as otherwise provided herein, the above easement areas (excluding any equipment or appurtenances owed by the Declarant, the Association, the City, or a utility company located thereon) herein reserved shall also be maintained by the Association.
- (c) No Improvements shall be placed or permitted to remain on such easement areas located within any Lot which shall interfere with the intended use or purpose of such easement(s), and no other activity shall be undertaken on any Lot which may interfere with the use and access intended to be provide by such easement or the installation or maintenance of the utilities or other facilities, if any, located thereon or therein.
- (d) Any easements reserved to the Declarant hereunder shall be fully assignable or otherwise transferable by the Declarant to the Association and/or the City at the sole discretion of the Declarant.

7. **Lighting.** Reasonable holiday lighting and decorations may only be displayed during the period starting Thanksgiving Day of each year to January 15 of the next year.

8. **Animals.** No animals, livestock, birds, insects or poultry of any kind shall be raised, bred, or kept on any Unit, except that domesticated, small household pets (e.g. dogs or cats) in such number, if any, and type as may be permitted in the discretion of the Board from time to time upon an Owner's written application to the Board prior to bringing a proposed household pet onto the Unit so long as such pet does not unreasonably bother or constitute a nuisance to others, and provided that it is not kept, bred or maintained for any commercial purpose. Under no circumstances shall the number of pets exceed the number then permitted by the Master Declaration which permits only one (1) such pet at the time of recording this Declaration. Any household pet brought onto a Unit shall be subject to such generally applicable rules and regulation as may be established by the Board from time to time. Once a particular pet has been approved in writing by the Board, the Owner may keep that pet on the Unit for so long as such Owner resides on the Unit and such pet does not become an unreasonable bother or constitute a nuisance to others. The Board shall have the right to modify its Rules and Regulations (including complete prohibition) concerning pets form time to time and the same shall apply equally to pets permitted before and after such modified rules and regulations take effect except that no rule or regulation adopted after a particular pet has been approved may have the effect of prohibiting such pet unless it has become an unreasonable bother or constitutes a nuisance to others. Dogs and other similar pets shall be on a leash when not confined to an Owner's Unit.

9. **Commercial Use Prohibited.** No Unit shall be used for commercial or business activity provided, however that the Declarant or person authorized by the Declarant may use a Unit for development and sales activities relating to the Subdivision, model homes or real estate sales. The use of a Unit for the commercial repair or sale of any vehicle, equipment, boat or other fuel operated equipment is expressly included in the above prohibition against commercial or business use.

10. **Restriction on Rentals.** At no time during the fifteen (15) year period after the date upon which these CC&Rs are recorded, shall more than twenty percent (20%) of the Townhomes within the Property be rented or leased. If this provision is violated, then the Owners of all of the Units located within the Property that are rented or leased shall be assessed a fee of ten percent (10%) of the gross amount of the rent or lease payment ("Excess Rental Fee") for the entire term of any lease that violates this covenant. Provided, however, an Owner may request a hardship exemption which will not be unreasonably denied. Provided further, that the Declarant, if an Owner of a Townhome, may rent such Townhome, which rental shall not be included in the calculation to determine if 20% of the Townhomes are rented or leased. The Excess Rental Fee shall be payable to the Master Association immediately, regardless of whether full rent is ultimately paid under any violating lease. The Association and all successors in interest to the Association hereby agree to continually track the percentage of rentals within the Property, to give periodic notice to rental Owners of conditions that will cause the Excess Rental Fee to be imposed and to have information regarding the current percentage of rentals within the Property and Property Owner contact information available at any time, upon request.

11. **Maintenance.** The following provisions shall govern the maintenance of Units and all Improvements thereon:

- (a) Each Owner of a Lot shall maintain any vacant Lot in a clean, sanitary, and attractive condition.
- (b) The Association will maintain and repair the exterior of each Townhome. Each Owner shall at his own cost and expense maintain, repair, refinish, paint and decorate the interior surfaces of the walls, ceilings, floors, windows and doors forming the boundaries of his Townhome. In addition to keeping the interior of the Townhome in good repair and in a clean and sanitary condition, each Owner shall be responsible for the maintenance, repair, or replacement of any windows, lighting fixtures, plumbing fixtures, water heater, heating equipment, air conditioning equipment, appliances or fixtures that may be in or connected to his Townhome. No Owner may make significant structural modifications to the interior of his Townhome without the prior written consent of the Board, which consent shall not be unreasonably withheld. The Board shall have the obligation to answer any written notice of an Owners intent to modify the structure or alter the interior of his Townhome within forty-five (45) days of delivery of the notice, and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification of all alteration. No Owner may alter the exterior of a Townhome.

- (c) A Townhome which is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals.
- (d) All trash, debris, garbage and refuse shall be kept at all times in a covered container and all such containers shall be kept on a Unit within an enclosed structure or screened from public view.
- (e) No articles, goods, machinery, materials, or similar items shall be stored, kept or maintained on a Unit in the open or exposed to public view.
- (f) Any event or condition on a Unit which, in the sole discretion of the Board, creates an unsightly or blighting influence, shall be corrected, removed or screened from public view, as the case may be, by the Owner of the Unit in a manner satisfactory to the Board notwithstanding the fact that such event or condition may not be specifically described and/or prohibited in this Declaration.
- (g) If any Owner shall permit any Improvement, including any landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board and/or its assignees, upon fifteen (15) days prior written notice to the Owner of such Unit shall have the right to correct such condition, and to enter upon said Unit and into any building or structure thereon, if necessary, for the purpose of correcting or repairing the same, and such Owner shall promptly reimburse the Association for the costs thereof. The Owner of the offending Unit shall be personally liable, and such Owner's Unit may be subject to a mechanic's lien for all costs and expense incurred by the Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefore, or the amounts may, at the option of the Board, be levied as a Limited Assessment against said Unit and shall be enforceable in the same manner as other assessments set forth in Article VIII of this Declaration.

12. **Boats, Campers, and Other Vehicles.** Trailers, mobile homes, trucks larger than standard pickups, boats, tractors, campers, garden or maintenance equipment and vehicles other than automobiles, when not in actual use, shall be kept at all times in an enclosed structure and screened from public view; and at no time shall any of said vehicles or equipment be parked or stored on a public or private right-of-way within the Subdivision. The parking or storage of commercial equipment, including, but not limited to, truck trailers or cabs, construction or exaction equipment, etc., is prohibited. The primary purpose of the garage required on each Unit is for the parking and storage of automobiles and other vehicles. No other use of a garage conversion of a garage, which prohibits or limits the use of a garage for the parking or storage of the number of automobiles for which it is designed, shall be permitted. Parking on the lawn or unpaved portion of a Lot is prohibited. No overnight parking whatever shall be allowed in any street or other public right of way in the Subdivision. No inoperative vehicle shall be parked or stored at any time on a Lot unless wholly within an enclosed structure. No repairs of any vehicles

shall be undertaken within the Subdivision, except wholly within the Owner's garage and with the garage closed.

13. **Garage Doors.** Garage doors shall be kept closed except when open for a temporary purpose.

14. **External Energy Devices.** No energy producing devices including, but not limited to, solar panels, windmills, and generators of any kind, shall be constructed, installed or maintained on any Unit without the prior written approval of the Board except as follows:

- (a) Heat pumps, air conditioning compressors, evaporative coolers, or similar appliances shown on the plans approved by the Board. Owners making use of such equipment shall take reasonable efforts to mitigate the sound of such equipment and to screen it from public view from the front of a Lot.
- (b) The use of generators and other external energy producing devices shall be authorized on a temporary basis in the event and during the period of an emergency.

15. **Signs.** No commercial billboard of advertising shall be displayed to the public view on or from any Unit. Lighted, moving or flashing signs for any purposes are prohibited. No directional signs may be used to give directions to traffic or pedestrians or give special instructions. No signs shall be permitted on lawns and other landscaped areas visible to the public without an express amendment of his Declaration granting the Board authority to approve and regulate the same. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat "For Sale" sign not exceeding 12"X18" in a window of the primary residence located on the Unit. Signs in areas other than lawns and landscaped areas shall be subject to prior approval and regulation by the Board which shall have absolute discretion to deny or condition its approval. Notwithstanding the foregoing, signs advertising the name of the builder and the name of the institution providing financing may be displayed on a Unit during construction of the Improvements. In lieu of the foregoing the Declarant shall regulate project and builder signage during the development phases of construction and marketing of units within the Subdivision. Signs advertising the development of the Subdivision and the builder may be displayed at the entrance to the Subdivision or elsewhere within the Subdivision as permitted in Declarant's discretion.

16. **Subdividing.** No Lot which has been platted and approved as a final Unit may be further subdivided, nor may an easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written consent of the Board. Provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling any Unit to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property. In addition, the conveyance of an insignificant portion(s) of a Unit to the Owner of the Unit which abuts said conveyed portion for the purpose of correcting a common boundary or other similar purpose shall not be deemed to be a subdividing or a Lot within the prohibition contained herein.

17. **Fences.** Any fences in the Subdivision shall be constructed and installed by Declarant of the Association and no other fences shall be allowed.

18. **Landscaping.** Landscaping in Association Maintenance Areas, including without limitation sprinkler systems, shall be installed by Declarant and maintained, repaired, and replaced by the Association. Any alterations or improvements to such landscaping may only be made with written approval of the Association and, to the extent required by the Master Declaration, by the Master Association. The maintenance of the public right of way and all common areas is the responsibility of the Association. The foundation drain laterals and collection system is owned and maintained by the Association. All pressurized irrigation fees will be billed by the city and paid by the Association.

19. **Other.** Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sounds devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Unit. The Board, in its sole discretion, shall have the right to determine the existence of any such nuisance. No motorcycles or motor driven vehicles (except lawn maintenance equipment) shall be operated on any walkways or sidewalks within the Project. The discharge of firearms, including without limitation, "B-B" guns and pellet guns, is prohibited. On-site storage of gasoline or other fuels is prohibited on any Unit, with the exception of up to five (5) gallons of fuel stored for emergency purposes and operation of small tools or equipment. All bicycles, tricycles, scooters, skateboards, and other play equipment, wading pools, baby strollers, and similar items shall be stored so as not visible from the streets or adjacent property. No such items shall be allowed to remain on Units so as to be visible from adjacent property when not in use. Reflective window coverings are prohibited. Trash receptacles used to store trash generated on a Unit until pickup by the municipal or otherwise contracted for service provider shall not be placed on the curb prior to 7:00 p.m. one day prior to the day of pick up and must be removed by 7:00 p.m. on the day of pick up to an area not publicly visible.

20. **Addition of Rules and Standards.** The Declarant shall have the power to promulgate Rules and Standards, subject to adoption by the Board, relating to the planning, construction, alteration, modification, removal or destruction of Improvements within the Property as shall be deemed necessary or desirable by the Declarant, to carry out the purposes of this Declaration.

21. **Exemption of Declarant.** Nothing herein contained shall limit the right of the Declarant to subdivide or re-subdivide any Lot or portion of the Property or to grant licenses, reservations, rights-of-way or easements to utility companies, public agencies or others; or to complete excavation, grading and Development to or on any Lot or other portion of the property owned or controlled by the Declarant, or to alter the foregoing and its Development plans and designs, or construction of additional Improvements as the Declarant deems advisable in the course of Development of the Subdivision. This Declaration shall not limit the right of the Declarant at any time prior to the acquisition of title to a Unit by an Owner to establish on that Unit additional licenses, restrictions, rights-of-way, and easements to itself, to utility companies and to others, as may from time to time be reasonably necessary. The Declarant need not seek or obtain Board approval of any Improvements constructed or placed within the Property by the

Declarant in connection with the Development of the Subdivision. The Declarant shall be entitled to the non-exclusive use, without charge, or any property owned by the Association within the Subdivision in connection with the marketing of the Units therein.

22. **Water Use.** Each Owner shall be responsible to ensure the reasonable and prudent use of culinary water provided to the Owner's Unit. Culinary water shall be supplied by the City and irrigation water shall be supplied to the Association's irrigation facilities by the Master Association.

23. **ARC Applicability.** In addition to the requirements hereof, every Owner and every Lot shall be subject to the guidelines, procedures and other requirements established by the ARC pursuant to authority granted to the ARC by the master Declaration.

24. **Notice of Services.** If a contract is in place with the Master Association and a telecommunications provider, each Owner shall be required to subscribe to the services of such telecommunications provider.

ARTICLE VI ASSOCIATION MAINTENANCE AREAS

Association Maintenance Areas as defined in Article III above are hereby established. Subject to an affirmative duty hereby imposed on each Unit Owner to avoid unnecessary interference with or unnecessary expense to the Association in carrying out its responsibilities with respect to the Association Maintenance Areas, the Association shall maintain all Declarant and/or Association installed Improvements located in the Association Maintenance Areas of a Lot and Common Areas in good and sufficient repair with attractive and healthy landscape plantings, free of rubbish, debris, snow and ice and otherwise in a neat and aesthetically pleasing condition. The Board may establish Rules and Regulations concerning Owners' use of the Association Maintenance Areas. The Board may also impose reasonable charges on Owners for their failure to comply with the duty to avoid unnecessary interference without unnecessary expense to the Association in carrying out its responsibilities with respect to Association Maintenance Areas. Such charges may be in the nature of Limited Assessments or in the form of such other charges as may otherwise be permitted by law. "Unnecessary expense" as used above shall include any expense caused by an Owner which is unusual in either nature or amount.

ARTICLE VII CRESTHAVEN VILLAGE HOMEOWNER'S ASSOCIATION, INC.

1. **Organization of Association.** The Association shall be organized by the Declarant as a Utah non-profit corporation and shall be charged with the duties and vested with the powers prescribed by law and set forth in its Articles of Incorporation, its Bylaws and this Declaration. Neither said Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with the Declaration.

2. **Members.** Each Owner (including the Declarant) of a Unit by virtue of being such an Owner and for so long as such ownership is maintained shall be a Member of the

Association. No Owner shall have more than one membership in the Association, but shall have such voting rights as hereafter set forth. A membership in the Association shall not be assignable, except to the successor-in-interest of the Owner of a Unit and a membership in the Association shall be appurtenant to and inseparable from the Unit owned by such Owners. A membership in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Unit and then only to the transferee of title to said Unit. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association.

3. **Classes of Membership.** The Association shall have two (2) classes of membership, as follows:

- (a) **Class A Members.** Class A Members shall be all Owners of Units within the Subdivision, with the exception of the Declarant.
- (b) **Class B Members.** Class B Members shall be the Declarant, and its successor or successors in title to one or more Units, which Units are held by any such successor. And to which successor the Declarant has specifically granted rights of Class B membership in writing; provided that if such membership rights are not so granted, such successor shall be entitled to the membership rights of a Class A member with respect to each Townhome owned.

4. **Governance and Voting Rights of Members, Board of Directors and Officers.** The governance of the Association and voting rights of the Class A and Class B Members shall be as follows:

- (a) Upon the effective date of the Association's Articles of Incorporation, the right to govern the affairs of the Association shall be vested in the Class B Members, as follows:
 - (i) In order to assure its right of governance and voting control during this period, the Class B Members shall have three hundred forty eight (348) total votes.
 - (ii) During the initial period of governance by the Declarant, the affairs of the Association shall be governed by a Board of Directors appointed by the Class B Members. The Directors so appointed need not be Owners.
 - (iii) The right to govern the affairs of the Association shall be and remain in the Class B Members until the last Unit is sold and transferred to an Owner (other than the Declarant or successor to Declarant's rights), at which time the Class B Members' right of governance shall end and all Class B memberships shall cease.

- (b) Upon the termination of governance by the Class B Members, the governance of the Association shall thereupon be and remain vested in the Class A Members, as follows:
- (i) The Class A Members, being the Owners of Lots within the Subdivision, shall be entitled one (1) vote per Lot for each Lot owned.
 - (ii) The Class A Members shall elect a Board of Directors, each of whom shall be Owners, who shall govern the affairs of the Association, and the Board of Directors shall elect officers, all in accordance with the Articles and Bylaws of the Association, as the same may be amended from time to time.

5. **Powers of the Association.** The Association shall have all powers of a non-profit corporation organized under the laws of the State of Utah subject only to such limitations as are expressly set forth in the Articles, the Bylaws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under the Articles, Bylaws and this Declaration, and to do and perform any and all acts which may be necessary or proper for, or incident to, the proper management and operation of its properties and facilities and the performance of other responsibilities including, but not limited to, the following;

- (a) **Acquisition of Real and Personal Property and Facilities.** The power to acquire and improve any Lot, tract, parcel or portion of land within nor without the Subdivision and such facilities, equipment and other personal property related thereto as shall be deemed advisable by the Association.
- (b) **Policies, Rules and Regulations.** The power to adopt, amend, and repeal such policies, rules and regulations ("collectively referred to as "Rules and Regulations") as the Association deems reasonable. Such Rules and Regulations shall govern the use by Owners, Occupants, and any other person of property owned or controlled by the Association provided, however, the Rules and Regulations shall not discriminate among Owners and shall not be inconsistent with the Articles, Bylaws and this Declaration. A copy of the Rules and Regulations as they may from time to time be adopted, amended or repealed shall be mailed or otherwise delivered to each Owner and Occupant. Upon such mailings Rules and Regulations shall be the same force and effect as if they were set forth in and were part of this Declaration. In the event of any conflict between a Rule and Regulation and any provision of the Articles, Bylaws or this Declaration, the conflicting provisions of the Rules and Regulations shall be deemed superseded to the extent of any such inconsistency.
- (c) **Services, Fees and Charges.** The power to determine those services which are to be furnished to or for the benefit of the Members of the Association, and to impose reasonable fees and charges for property and facilities owned and maintained by the Association and for other services rendered by the Association,

in addition to Regular, Special and Limited Assessments, as deemed necessary by the Board.

- (d) Assessments. The power to levy Regular, Special and Limited Assessments on the Owners and/or Lots and to enforce payment thereof in accordance with the provisions of this Declaration.
- (e) Enforcement. The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner(s) who consent thereto, (i) to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Articles, Bylaws, Declaration or Policies, Rules and Regulations; (ii) to affirmatively enforce the Articles, Bylaws, Declaration or Policies, Rules and Regulations by mandatory injunction; (iii) to foreclose liens for the collection of Assessments; and (iv) to otherwise enforce all provisions of the same.
- (f) Delegations of Powers. The authority to delegate its power and duties to any officer, committee, employee or to any person, firm or corporation to act as manager.
- (g) Liability of Board Members and Officers. Neither any member of the Board nor any officers of the Association shall be personally liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act, error, or mission of the Association, the Board, its officer, a manager or any other representative or employe of the Associations, provided that said Board Member, officer, manger, or other person has, upon the basis of such information as was available, acted in good faith without willful or intentional misconduct.
- (h) Licenses, Easements and Rights-of-Way. The power to grant and covey to any third party such licenses, easements, rights-of-way or fee title on, through, under or over the properties of the Association as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment thereof and for the preservation of health, safety, convenience and welfare of the Owners, for the purpose of constructing, erecting, operating or maintaining:
 - (i) Underground lines, valves, conduits and other devices for the transmission of any utility or other service.
 - (ii) Public sewers, storm drains, water drains and pipes, water systems, sprinkling and irrigation water systems, water, heating and gas lines or pipes.
 - (iii) Any similar public or quasi-public improvements or facilities including but not limited to parks, pathways, streets, nature trails, recreational facilities, pools, ponds, entrances, waterways, open spaces, clubhouses, game rooms, fact and handicraft facilities, greenhouses, hobby facilities and all other common amenities pertaining to the Development, provided

that the particular feature or facility has been deeded by the Declarant to the Association.

- (i) Fiscal Year. The Board shall have the right to elect a fiscal year for the Association instead of a calendar year for budget Assessment and accounting purposes.

6. **Duties of Association**. In addition to the powers delegated to it by the Articles, Bylaws and this Declaration, without limiting the generality thereof, the Association and of its authorized agents, if any, shall conduct all business affairs of common interest to all Owners and perform each of the following duties:

- (a) Maintenance of Association Maintenance Areas. Maintain or provide for the maintenance of the Association Maintenance Areas as provided in Article VI above.
- (b) Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Association and/or any property owned by the Association, including without limitation those specifically identified in Article VIII of the Declaration. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes, levied against the Association in the event that the Association is denied the status of a tax exempt corporation.
- (c) Insurance. Obtain, from reputable insurance companies authorized to do business in the State of Utah, and maintain in effect, commercial general liability insurance, full coverage directors and officers liability insurance, and such other insurance, including special form property insurance, worker's compensation insurance, fidelity, performance and other bonds, to the extent and in such amounts as deemed necessary by the Board in order to comply with applicable law and to carry out the Association's functions. With respect to such insurance:
 - (i) The Association shall be deemed a trustee of the interests of all Owners in any insurance proceeds paid to it under such policies, and shall have full power to receive their interests in such proceeds and to deal therewith.
 - (ii) Insurance premiums for the above insurance coverage and any deductibles or retention associated therewith shall be deemed a common expense to be included in the Regular Assessments levied by the Association.
- (d) Rule Making. Make, establish, promulgate, amend and repeal Rules and Regulations.

- (e) Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by the Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration and the Association rules.
- (f) Fulfillment of Purpose. Take any and all action that the Association deems necessary or advisable to fulfill its purpose.

7. Association Litigation.

- (a) The Association shall not commence a judicial or administrative proceeding without the approval of Declarant for so long as Class B Members govern the Association.
- (b) Neither the Association nor any Owner shall institute an action against any person which arises out of an alleged defect in the development of the Subdivision until: (i) Declarant and the person(s) who physically constructed the portion of the Subdivision in which the alleged defect exists have been notified and given a reasonable time and opportunity in which to inspect, assess, correct, or redesign any alleged defect or other portions of the Subdivision (provided, however, that the terms of this Section shall not create an obligation of any person to effect a repair of an alleged defect); (ii) the Association or Owner(s) have pursued their remedies under any express warranty covering all or any portion of the alleged defect; (iii) the Declarant and the affected contractor(s) have been given the opportunity to be heard at a meeting of the Association regarding the alleged defect; and (iv) all proposed parties to the action have been given a reasonable opportunity to mediate any dispute or disagreement relating to the alleged defect, and have either participated or refused to participate in such mediation.
- (c) This Section shall not apply to (i) actions brought by the Association to enforce this Declaration or the Bylaws (including, without limitation, the foreclosure of liens); (ii) the collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims brought by the Association in proceedings instituted against it; or (v) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of an express contract with the Association or its manager for services or supplies.
- (d) If either the Association or an Owner employ an attorney, whether or not suit is filed, to enforce compliance with or specific performance of any provision of this Declaration, the Bylaws or any rules, regulations, policies, procedures or similar provisions established pursuant to authority granted in any of the foregoing documents, the non-prevailing party shall pay the reasonable attorney's fees and other expenses incurred by the prevailing party in connection therewith.

8. Budgets and Financial Statements. Financial statements for the Association shall be regularly prepared and copies distributed at the Association's annual meeting as follows:

- (a) A pro forma operating statement (budget) for each fiscal year.
- (b) Within ninety (90) days after the close of each fiscal year, the Association, or its agent, shall cause to be prepared a balance sheet as of the last day of the Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Association for that fiscal year.

ARTICLE VIII ASSESSMENTS

1. **Covenant to Pay Assessments.** Each Owner hereby, and by acceptance of a deed of a Lot, covenants and agrees to pay when due all Regular, Special and Limited Assessments or charges levied by the Association, and the Master Association, in such amounts as the Board shall determine to be necessary, in conformance with the provisions hereof. Prior to the issuance of a Certificate of Occupancy each Owner shall pay to the Master Association a monthly fee of \$15.00. After the issuance of a Certificate of Occupancy each Owner shall pay the then current assessment imposed by the Master Association. All such Assessments, together with interest, costs and reasonable attorneys' fees which may be incurred in collecting the same, shall upon conveyance of a Lot from Declarant, be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made, and shall be also the personal obligation of the Owner of such Lot at the time when the Assessment becomes due and payable; provided, however, that all such assessments and other charges first becoming payable more than six months prior to such sale or transfer shall be junior and subordinate to the lien of a First Mortgage encumbering the Lot or, in the case of a Declarant owned Lot, to Declarant's debt covenants. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them. No Owner may waive or otherwise avoid liability for any Assessment by non-use of the property of the Association, services provided by the Association nor by abandonment of his Lot.

2. **Regular Assessments.** Regular Assessments shall be levied in conformance with the following:

- (a) Regular Assessments shall be assessed on a monthly basis unless otherwise determined by the Board.
- (b) The Regular Assessments shall be based upon advance estimates of annual cash requirements as determined by the Board for the maintenance and operation of the Common Areas and all easement areas, if any, controlled by the Association and for the performance by the Association of its other duties and responsibilities. Such estimates may include, but shall not be limited to, expenses of management, administration and funding of activities, taxes and special assessments of local governmental units, premiums for all insurance which the Association is required or permitted to maintain hereunder, landscaping and care of grounds, operation and maintenance of the clubhouse and pool and other Common Areas, repair and maintenance, snow removal, legal and accounting fees, any deficit remaining from previous periods and the creation of a reserve, surplus and/or sinking

fund(s), and other expenses or obligations incurred or expected as they may be required by the Association in compliance it this Declaration.

3. **Special Assessments.** In addition to Regular Assessments, the Association may levy at any time a Special Assessment payable over such period as the Board may deem appropriate for the following purposes.

- (a) To defray, in whole or in part, the cost of any construction or reconstruction of Improvements on property owned by the Association, unexpected repair or replacement of property or any faculty located thereon or any area which the Association is responsible to maintain or repair, the furnishing of a special service or services (other than those appropriate for all Limited Assessment), or for any other expenses incurred or to be incurred as provide in the Declaration.
- (b) To cure a deficit in the common and ordinary expenses of the Association for which Regular Assessments for a given calendar or fiscal year are or will be inadequate to pay, as determined by the Board.
- (c) To pay any tax or assessment or local governmental units not considered in determining the Regular Assessments.

4. **Limited Assessments.** In addition to Regular and Special Assessments, Owners shall pay Limited Assessments as follows:

- (a) **Maintenance and Repair.** The Association shall have the power to incur expenses or maintenance and repair of any Lot or any Improvements on a Lot, if such maintenance and repair is necessary, in the opinion of the Board, to protect the property owned by the Association or any other portion of the Property, and if the Owner of said Lot has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity thereof has been delivered by the Board to said Owner. The Board shall levy a Limited Assessment against the Owner of the Lot and the Lot owned by said Owner to pay for the cost of such maintenance and repair, and any other costs or expense, including attorneys' fees, arising out of or incident to such maintenance and repair and the Assessment therefore.
- (b) **Correction of Violations.** In addition to maintenance and repair, the Board, upon the failure or refusal of an Owner to correct a violation of this Declaration or the Master Declaration, polices Rules and Regulations, shall have the power to correct any such violation on a Lot or any Improvement on a Lot, and incur costs necessary in connection therewith. The reasonable costs of such corrective action, together with interest, related expenses and attorneys' fees shall be assessed and collected as set forth in Article IX of this Declaration.

- (c) **Limited Purpose.** The Association shall have the power to levy a Limited Assessment against Owners and Lots for any limited special purpose (including imposition of fines) which the Board believes necessary with respect to certain Lots but not an appropriate expense for payment by the Association. Such Limited Assessment shall not be made until the Owners of said Lots subject thereto have been given an opportunity, after notice, to participate in a hearing before the Board with respect to said Limited Assessment.

5. **Commencement of Regular Assessments.** Regular Assessments of the Association against each Lot shall commence on the date the Declarant conveys title to that Lot to an Owner who is not the Declarant and does not succeed to the rights of the Declarant. If the Declarant pays all or any portion of the expenses of the Association in excess of the amount attributable to Lots owned by the Declarant as though they were subject to Regular Assessment, such excess amounts paid shall constitute a prepayment of Assessments (Regular and Special) to become due and payable on the Lots owned by the Declarant within the Subdivision; provided that, unless such excess amounts so paid by the Declarant are paid pursuant to a written agreement with the Association to the contrary, the Declarant shall not be entitled to reimbursement in cash of any such Assessment credit nor shall such credit inure to an Owner purchasing a Lot from the Declarant, unless such person is the successor to substantially all of the interest of the Declarant in the Property. Nothing herein contained shall obligate the Declarant to pay any Assessment with respect to any Lot which Declarant owns.

6. **Uniform Rate of Assessment.** Except as expressly provided to the contrary in this Declaration, Regular and Special Assessments of the Association shall be levied at a uniform rate for all Lots.

7. **Assessment Due Date.** The due dates for Regular, Special and Limited Assessments shall be the first day of the first month after imposition of the Assessment, unless some other due date is established by the Board. Each installment of an Assessment shall be delinquent if not paid within ten (10) days after the due date thereof. Nothing herein contained shall prohibit the Board from requiring that Special or Limited Assessments be paid in a lump sum instead of installments.

8. **Interest and Other Charges.** Any Regular, Special or Limited Assessment levied by the Association on Lots, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time to time, or if none is so set, at an annual rate of twelve percent (12%). Such interest shall commence on the date the Assessment becomes due and payable. In addition to the interest charge, the Board may, in accordance with rules promulgated by it, impose additional charges for the failure of an Owner to timely pay any Assessment when due. The right of the Board to charge interest or impose additional charges shall be in addition to, and not in lieu of, any other right of enforcement or sanction available to the Board in the event of non-payment of an Assessment.

9. **Capitalization of Association.** Beginning with the initial conveyance and each succeeding conveyance of a Lot to an Owner who is not the Declarant and who does not succeed to the rights of the Declarant, the grantee of such conveyance shall make a one time capital contribution to the Association in the amount of \$250 to be used for the purposes for which Assessments may be used pursuant to this Declaration. Such capital contribution shall be deposited by such grantee into the purchase and sale escrow and disbursed therefrom to the Association in addition to and not in lieu of any Assessments due.

ARTICLE IX COLLECTION OF ASSESSMENTS

1. **Right to Enforce.** The right to collect and enforce payment of the Assessments made by the Association is vested in the Association. Each Owner of a Lot hereby agrees to the enforcement of the payment of all Assessments in the manner herein provide. Suit to recover a money judgment for unpaid Assessments is maintainable without foreclosing or waiving the lien securing them. In the event an attorney is employed for the collection of an Assessment, whether by suit or otherwise, the Owner against whom such enforcement is sought shall pay reasonable attorneys' fees and other expenses in connection therewith. If an Assessment is payable in installments, the Association may, upon an Owner's default, elect to declare the entire amount of such Assessment immediately due and payable.

2. **Creation of Assessment Lien.** If any Owner fails or refuses to make any payment of any Assessment when due, the amount thereof shall constitute a lien on the interest of the Owner in the Lot upon the recording of a notice of lien by the Board or its designee. Such lien shall be prior to all other liens and encumbrances, recorded or unrecorded, except: (i) tax and special assessment liens on the Lot in favor of any governmental unit or special improvement district having assessment authority; and (ii) encumbrances on the interest of the Owner recorded prior to the date such notice of lien is recorded which by law would be a lien prior to subsequently recorded encumbrances. An Assessment lien shall constitute a consensual lien that is superior in right and not subject to any homestead or similar exemption to which an owner may otherwise be entitled under applicable law.

3. **Foreclosure of Lien as Mortgage or Trust Deed.** The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein. The sale or foreclosure may be conducted in the same manner as foreclosures of mortgages, trust deeds, (pursuant to the provisions of Utah Code Ann. §§57-1-19 et seq. as amended or successor statute) or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay reasonable attorneys' fees. Such lien shall also secure and require the Owner to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure. To the extent and under the circumstances permitted by law, the Owner shall pay to the Association, the reasonable rental value for the Lot if it is Owner occupied during the period of foreclosure. If the Lot is rented during the period of foreclosure, the Association shall be entitled to collect such rents during the period of foreclosure. The Association in the foreclosure action may require the appointment of a receiver to collect rents without regard to the value of the Owner's interest in the Lot. The Association may bid for the Lot at the foreclosure or other sale and hold, lease, mortgage, or convey the same.

4. **Trust Deed Provisions.** Each Owner hereby conveys and warrants the Lot in trust with power of sale to the Association's attorney as trustee to secure performance of the Owner's obligations, to the Association, as beneficiary. The Owner hereby requests that any and all notices of default and other communications material to an exercise of the power of sale be sent to the street address of the Owner's Lot and the last known mailing address of the Owner as shown on the books and records of the Association, if different from the Lot address. Any interested party, including the Association's attorney, collection agent, trustee or other agent of the Association may purchase at any sale of a Lot.

5. **Non-Exclusive Remedy.** The remedies set forth in this Article or elsewhere in this Declaration shall not be deemed to be an exclusive remedy and the Association may pursue all other remedies available at law or in equity. In addition to all of the foregoing, the Board, may adopt rules for such additional enforcement remedies as the Board may deem desirable for the collection of delinquent assessments. Such additional remedies may include, without limitation, rules authorizing Association collection of rents from tenants or delinquent Owners without the necessity of a foreclosure or appointment of a receiver, suspension of voting rights, or suspension of entitlement to common services, etc.

ARTICLE X ANNEXATION

1. **Annexation.** Until Declarant no longer owns any Lots in the Subdivision nor any annexable territory, additional property may be annexed to the Subdivision and brought within the provisions of this Declaration by the Declarant, at any time, without the approval of any Owner or the Association. To annex additional property to the Subdivision, the Declarant shall record an amendment to this Declaration which shall describe the additional property to be annexed to the Subdivision, and the Declarant may supplement this Declaration with additional or different Covenants and Restrictions applicable to the annexed property, as the Declarant may deem appropriate, and the Declarant may delete or modify such covenants as are contained herein which the Declarant deems inappropriate for the annexed property. Upon such annexation, the Owners of the Lots within the annexed property shall become Members of the Association with the same rights, privileges and obligations as all other Members. The amendment of this Declaration as authorized by this Section, to annex additional property to the Subdivision, shall be controlled by the provisions of this Section and shall be expressly excluded from the requirements of Article XI, Section 2 of his Declaration. Notwithstanding the foregoing, in the sole discretion of Declarant, each annexed parcel may be developed and platted as a separate and distinct subdivision and, if so, the annexation thereof may not, by virtue of such annexation, be considered an alteration, amendment or change to the plat for any prior subdivision comprising the Property governed by the provisions of this Declaration.

2. **De-Annexation.** The Declarant shall have the right to delete all or a partition of the Property from the coverage of this Declaration and the jurisdiction of the Association, so long as the Declarant is the Owner of all the property to be de-annexed and, provided further,

that an appropriate amendment to this Declaration is recorded in the office of the Utah County Recorder.

ARTICLE XI MISCELLANEOUS

1. **Term.** This Declaration and all covenants, conditions, restrictions and easements contained herein shall run until December 31, 2055, unless amended as hereafter provided. After December 31, 2055, said covenants, conditions, restriction and easements shall be automatically extended for successive period of ten (10) years each, unless extinguished by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots covered by this Declaration and such written instrument is recorded with the Utah County Recorder.

2. **Interpretation of Restrictions.** All questions or interpretations of the Restrictions shall be resolved by the Board, and its decision shall be final, binding and conclusive on all the parties affected.

3. **Amendment and Voluntary Termination.** Notwithstanding any other provision of this Declaration, including Article XI, Section 1, this Declaration may be amended or terminated as follows:

- (a) **By Declarant.** Until title to the last Lot within the Subdivision is conveyed by the Declarant to an Owner other than Declarant, this Declaration may be amended, amended and completely restated, or terminated by the Declarant by recording a written instrument signed and acknowledged by the Declarant setting forth such amendment or termination. In connection with the foregoing right and for the duration thereof, Declarant shall also have the right and power to dissolve the CrestHaven Village Homeowner's Association, Inc. (the "Association").
- (b) **By Owner(s).** Except where a greater percentage is required by an express provision in this Declaration, the provisions of this Declaration, may be amended by an instrument in writing, signed and acknowledged by the President and Secretary of the Association, certifying that such amendment has been approved by a vote or written consent of 67% of the Class A Members and 100% of the Class B Members (for so long as Class B Memberships shall exist) and such amendment shall be effective upon its recordation with the Utah County Recorder.

4. **Books and Records.** All books, records and minutes of the Board of Directors and all other books and records maintained by the Association shall be made available for inspection and copying at any reasonable time by an Owner or by his duly authorized representative for any purpose reasonably related to this interest as a member in the Association, at the place where the books and records are kept or at such other place and time as agreed between the Board of Directors and the Owner. The Owner shall bear the reasonable expenses of

copying any documents as well as any reasonable charges incurred and/or imposed by the Board of Directors for making the records available.

5. **Non-Waiver.** The failure of the Declarant, the Board or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements or other provisions of this Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

6. **Acceptance.** Each Owner of Lot, each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option accepts the same subject to all of the covenants, conditions, restriction, easements and other provisions set forth in this Declaration and agrees to be bound by the same.

7. **Limitation on Liability.** Notwithstanding anything to the contrary contained in this Declaration, Declarant makes no representations or warranties whatsoever that the plan presently envisioned for the complete development and use of the Property can or will be carried out or that any land now owned or here after acquired by the Declarant is or will be committed to or developed for a particular use, or that if land is one used for a particular use, that such use will continue in effect. Declarant shall not be liable to any Owner for any action taken or omitted to be taken so long as the conduct of Declarant was in good faith, except such as may arise from the willful misconduct or gross negligence of Declarant.

8. **Indemnification of Board Members.** Each officer of the Association and each member of the Board of Directors shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred or imposed in connection with any proceeding to which said member may be a party or in which said member may become involved by reasons of being or having been a member of the Board, or any settlement thereof, whether or not said person is a member of the Board at the time such expenses or liabilities are incurred, except in such cases wherein said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the board approves such settlement and reimbursement as being in the best interest of the Association or Owners. This Section shall extend to and apply also for the indemnification of the Declarant and its employees, officers, directors, and shareholders during the period that the governance of this Association is vested in the Declarant.

9. **Notices.** Any notice permitted or required to be delivered as provide in this Declaration shall be in writing and shall be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States, mail, postage prepaid, properly addressed.

10. **Interpretation.** The provisions of this Declaration and any Supplemental Declaration shall be liberally construed to effectuate the objectives set forth in Article IV, above,

and shall be construed and governed by the laws of the State of Utah. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine feminine or neuter shall include the masculine, feminine or neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

11. **Severability**. Notwithstanding anything herein to the contrary, each of the provisions hereof shall be deemed independent and severable and the invalidity or unenforceability or any provision or portion thereof shall not affect the validity or enforceability of any other provision.

12. **First Mortgage Protection**. The lien or claim against a Lot for unpaid Assessments or other sums due to the Association shall not be affected by and sale or transfer of such Lot, except that a sale or transfer pursuant to a foreclosure of a First Mortgagee shall extinguish the lien for any debt payable more than six months prior to such sale or transfer. Any First Mortgagee or other purchaser or transferee who obtains title to a Lot pursuant to the remedies in a First Mortgage or through foreclosure will not be liable for more than six months of the Lot's unpaid regularly budgeted dues or other charges accrued before acquisition of the title to the Lot by the First mortgagee or other purchaser or transferee so obtaining title. Nevertheless, any such extinguishment of lien and release of liability in accordance with such foreclosure sale: (i) shall not relieve such purchasing First Mortgagee, such other purchaser or transferee of such Lot from liability for the lien or any Assessments becoming payable after such purchase; and (ii) shall not relieve the Owner o the Lot at the time any such debt became payable from continuing personal liability therefore.

13. **Superiority of Master Declaration**. In case of any conflict between this Declaration and the Master Declaration and any amendments to either of them made at any time, the provisions of the Master Declaration shall govern.

Signatures and acknowledgements on following page(s).

EXHIBIT A
[Legal Description of Property]

CrestHaven Legal Description

Beginning at a point which is West 4942.31 feet and North 1058.27 feet from the Southeast Corner of Section 30, Township 4 South, Range 1 East, Salt Lake Base and Meridian; thence N 38°48'18" W 56.76 feet; thence N 51°11'42" E 15.00 feet; thence N 38°48'18" W 475.09 feet; thence N 43°01'07" E 1020.65 feet; to a point of curvature, thence along an arc of a 1162.00 foot radius curve to the right 122.48 feet, through a central angle of 06°02'21", the chord bears S 32°11'49" E 122.42 feet; thence S 61°39'06" W 32.20 feet; thence S 27°56'39" E 43.92 feet; thence S 25°56'07" E 38.00 feet; thence S 27°46'02" E 44.20 feet; thence N 62°16'04" E 31.54 feet; thence S 26°19'37" E 465.69 feet; to a point of curvature; thence along an arc of a 30.50 foot radius curve to the left 11.89 feet, through a central angle of 22°20'28", the chord bears S 89°50'37" W 11.82 feet; thence S 78°40'23" W 48.46 feet; to a point of curvature; thence along an arc of a 119.00 foot radius curve to the right 47.00 feet, through a central angle of 22°37'51", the chord bears S 89°59'19" W 46.70 feet; thence S 61°23'48" W 289.73 feet; thence S 41°30'12" W 518.28 feet to the POINT OF BEGINNING.

The above described parcel contains 12.06 acres (525386.68 sq. ft.)