

## ***DECLARATION OF COVENANTS CROSS CREEK ESTATES SUBDIVISION***

VESTA, LLC, a Wyoming limited liability company, and June E. Warren and Larry G. Warren, herein referred to as the "Declarant", as their interests may appear, hereby declares that all of the lands within CROSS CREEK ESTATES SUBDIVISION, as more particularly described and laid out in that certain Plat prepared by MC2 Engineering, P.C., approved by the County Commissioners of Sheridan County on July 5, 2005, and recorded in the Office of the County Clerk of Sheridan County on Nov. 1, 2005 as Plat #C-58, which said Plat is incorporated herein by reference, shall be subject to the following covenants.

### ***RECITALS:***

- A. Declarant owns that real property shown and described on the above-described Plat which is commonly known as Cross Creek Estates Subdivision and which is referred to herein as the "Subdivision" or the "Property".
- B. Declarant intends to sell and convey each of the twenty one lots described in the Subdivision and records these Covenants with the intent of creating binding restrictions on the Subdivision and the individual lots thereof to ensure that each is developed in a desirable, attractive, beneficial, valuable and suitable manner with a design, use of materials and appearance appropriate for a residential neighborhood.
- C. Declarant adopts and places of record against the Subdivision and each lot thereof these Covenants for the benefit of the record owners of each Lot (herein "Owner") so that each lot shall be used only in a manner consistent with these Covenants, which shall run with the land and be binding on all parties having any right, title or interest in a lot, and each Owner's heirs, successors and assigns.
- D. Declarant creates an Architectural Control Committee (herein "ACC") and a Home Owners' Association (herein "Association"), both described below, to supervise and enforce the construction/improvement requirements and other covenants, as set forth hereinafter, and to otherwise perform all of those duties enumerated below for the welfare of the Subdivision.

THEREFORE, Declarant declares that the Subdivision known as Cross Creek Estates, and each lot thereof, shall be owned, transferred and occupied subject to the covenants, conditions, restrictions, easements and liens (herein described as the "Covenants") as set forth herein.

1. **LOTS DEFINED.** These Covenants shall apply to each and every of the twenty one (21) numbered Lots of CROSS CREEK ESTATES SUBDIVISION, as designated and shown on the aforesaid Plat as Lot 1 through Lot 21 (herein referred to as "Lot" or "Lots"). Each covenant herein shall apply to each said Lot, and shall be binding upon and run with the land. Provided further, Declarant may develop additional lots adjacent to the Subdivision in the future and reserves the right to encumber such lots in the future with these Covenants.

2. **NO FURTHER SUBDIVISION.** No Lot which is part of the Subdivision shall ever be hereafter further divided, subdivided, split or partitioned in any manner.

3. **RESIDENTIAL USE ONLY/HOME BUSINESS EXCEPTION.** All Lots shall be used for residential purposes only. If an Owner leases a home on a Lot to another person, the Owner shall be responsible for ensuring only residential use be made of the Lot and compliance by the lessee with these covenants.

No business or commercial building may be erected on any Lot, and no commercial enterprise or other non-residential use may be conducted on a Lot; provided however, nothing herein shall prohibit a home business or home occupation use that may be otherwise permitted

under the applicable zoning regulations of Sheridan County, Wyoming, as now in effect or as hereafter amended or promulgated, by an Owner of the Lot so long as such home business occurs within the Owner's home electronically or by other means not involving externally visible activities or traffic above and beyond what would otherwise be reasonable if that Lot were used exclusively for residential purposes.

4. CONSTRUCTION REQUIREMENTS.

a. *New Construction/Time For Completion.* All buildings erected on a Lot shall be either:

- (i) on-site new construction with new quality materials, or
- (ii) high quality system-built homes offered by All American Homes or Wardcraft, which are the two expressly-permitted companies that produce higher-than-average quality system-built homes. All such system-built homes shall be: constructed off-site with 2"x6" exterior wall framing and with new quality materials; are Uniform Building Code (UBC)-approved and are approved by the Architectural Control Committee ("ACC"). Any system-built home built by a company other than All American Homes or Wardcraft must be expressly approved by the ACC. No owner shall place any other factory constructed modular home on a Lot which is constructed by another company not expressly accepted herein without the express written approval of the ACC.

No Owner shall erect or place any mobile homes on any Lot at any time. Trailers shall not be used as a residence on any Lot during construction. Once construction of a structure is commenced on a Lot, construction of that structure shall be completed within twelve (12) months of commencement.

b. *Compatibility of Improvements.* All buildings, fencing and any other improvements constructed on a Lot shall be appropriate in character, design, color and architecture in relation to the general area and to the other homes in the Subdivision. No unusual design, styles or construction methods shall be allowed.

c. *Colors of Improvements.* All buildings and improvements will be painted, stained, sided and roofed in primarily earth tone colors so that they shall blend with the land and the surrounding area and homes as much as possible.

d. *Number of Buildings Per Lot.* No buildings shall be erected, altered, placed or permitted to remain on a Lot other than: one (1) single-family primary residential dwelling which shall have a private attached garage for at least two vehicles, and a maximum of one (1) additional accessory building which may be used for a barn, shop, additional garage, studio, or guest house, workshop, recreation room, storage area, or any combination thereof.

e. *Minimum Square Footage for Homes.* Every primary residential dwelling that is a single story home shall have a minimum of 1,800 square feet of above-grade finished living area. Every primary residential dwelling that is a two story (above grade) home shall have a minimum ground level floor area (i.e., footprint) of no less than 1,400 square feet of finished living area on the ground level and no less than a total of 2,000 square feet of finished living area above-grade. No primary residential dwelling shall exceed two stories above finished grade. No basement area will be considered a part of the finished floor area requirements. No basement shall extend higher than thirty inches (30") from the highest point of the finished grade elevation of the primary residential dwelling; provided however, if a Lot allows for a daylight basement, a daylight basement shall be permitted with the daylight portion being allowed to exceed said 30" maximum.

f. *Accessory Buildings.* Accessory buildings shall not exceed 3,000 square feet on

the ground level, and shall be of properly framed construction. No Accessory building shall exceed a height of fourteen feet (14') at the highest point of the sidewall nor twenty seven feet (27') feet from the top of the floor to the highest point of the main roof ridge line. Provided further, an accessory building constructed on a Lot shall be constructed in a style that matches the primary residential dwelling constructed thereon, and the siding and roof materials and colors of both buildings shall be the same on the dwelling and accessory building.

In an effort to promote a higher quality look than an average pole-type barn, each accessory building shall have one or more architectural details that provide a higher-than-average appearance (examples of such intended details include but are not limited to: varying or multiple roof lines, covered porch or landing, a roof cupola or other such architectural details). The architectural details required by this paragraph shall be subject to the approval of the ACC.

g. *Permitted Sidings.* Each primary residential dwelling and accessory buildings shall be sided with the following materials:

- i. properly painted, stained or treated cedar siding which shall be properly maintained after installation;
- ii. properly stained, painted or treated logs with a minimum diameter or thickness of seven inches (7") which shall be properly maintained after installation;
- iii. traditional stucco, Drivit or other high quality stucco-like siding;
- iv. masonry which shall include natural or cultured stone or brick;
- v. high quality manufactured/composite siding [examples of such permitted composite siding include: Certainteed's "WeatherBoards"; James Hardie's "Hardiplank Lap Siding" or "Hardishingle Siding" and other such higher-than-average manufactured siding approved by the ACC] that is in the form of a traditional lap siding or shake panels and which meets all of the following minimum criteria: (A) the color warranty on the siding product is a minimum of fifteen (15) years; (B) the durability warranty on the siding product is a minimum of fifty (50) years; (C) the reveal of such a lap siding does not exceed six and a quarter (6 ¼) inches; and (D) that the siding is properly installed according to manufacturer specifications.
- vi. Metal siding may be permitted only upon the prior express approval of the ACC.

h. *Prohibited Sidings.* No primary residential dwelling nor any accessory building erected on a Lot shall be sided with any other materials such as the following materials, which are prohibited as such are typically inferior and less-than-average in quality and appearance, to-wit:

- i. plywood or any wood sheet panel siding;
- ii. vinyl siding;
- iii. pressed board, hard board siding or other such inferior grade composite siding;
- iv. exposed unfinished cement or concrete block (no more than 30 inches of unfinished concrete for any basement/foundation wall shall be left exposed in its unfinished condition),
- v. metal siding unless expressly permitted by the prior express approval of the ACC; or
- vi. any other inferior siding.

j. *Soffit and Fascia.* All soffit and fascia shall be considered a part of the siding and shall be installed using new quality material and in accord with the siding materials allowed in paragraph 4 g., above; provided however, metal soffit and fascia may be used so long as such metal soffit and fascia meets the following minimum quality specifications: all such metal shall be of a high quality and thickness and shall be properly installed; and fascia over seven inches (7") in height shall have a stepped appearance. Provided further, whenever metal soffit and

fascia is used, that area where the rake fascia board meets the horizontal soffit from the side of the house, that connection shall be finished by boxing in the connection so that it has a finished appearance.

k. *Trim Boards/ Window&Door Casing.* Should any building be sided with any material other than those permitted sidings listed in paragraph 4.g. (ii) and (iii), above, then all exterior windows and doors shall have a minimum of 3½ inch, and a maximum of 6 inch, trim boards which case all windows and doors and shall have corner boards with a minimum width of 3½ inches, and a maximum of 6 inches, on each corner of the building.

l. *Roofing Requirements.* All major roof lines of any primary residential dwelling shall be pitched with at least a 6/12 pitch, unless otherwise expressly permitted by the ACC. All buildings constructed on a Lot shall have a roof of at least eighteen inch (18") overhang. No major roof line of any other structure erected on a Lot shall be pitched less than a 6/12 pitch. Permitted roofing materials shall not be in any unusual color and are limited to: (i) tile or slate; (ii) asphalt shingles; provided however, if asphalt shingles are used, they shall be the architectural design with the "shake" look and shall be of a quality with at least a 35 year rating, (iii) high quality composite shakes, (iv) real cedar shakes, (v) metal roofing with a baked enamel or high quality coated finish and in an architectural grade with concealed screws/fasteners, or (vi) other such higher-than-average quality roofing material approved by the ACC.

n. *Sheathing & Exterior Framing Requirements.* All construction shall use sheathing (except in types of construction where sheathing is not required, like logs) meeting at least the following minimum requirements: (i) all wall sheathing shall be at least 7/16" plywood, OSB or comparable sheathing product; (ii) all roof sheathing shall be at least 5/8" plywood, OSB or comparable sheathing product; and (iii) all subflooring shall be at least 3/4" plywood, OSB or comparable subflooring product. Additionally, all exterior stud walls shall be framed with studs on 16" centers or less. The purpose of these requirements is to ensure the quality of the exterior appearance of the buildings shall be long lasting and shall not sag or develop a lower quality appearance because of lesser construction products used for exterior sheathing/framing.

o. *Fences.* There shall be no chain-link fences, no woven or barbed wire fences (except for the exterior fences of the Subdivision for purposes of keeping livestock out), no concrete block fences, buck-and-rail wood fence, nor any other unusual type of fence not common to the area on any Lot. All permanent fences to be constructed on a Lot shall be subject to approval by the ACC.

## 5. ARCHITECTURAL CONTROL COMMITTEE.

a. *Formation Of the Architectural Control Committee* – The Architectural Control Committee (herein the "ACC") is created by this Declaration, and it shall have the exclusive right to govern, control and enforce the architectural review and approval of the building requirements for all construction and landscaping on a Lot and any other improvements to a Lot. The ACC shall further be responsible for the approval/denial of any variance to the construction, design, elevation, landscaping or other general building requirements for each Lot, as set forth herein.

The ACC is initially made up of one member who shall be the Declarant, VESTA, LLC. Once seven (7) of the twenty one (21) initial Lots in the Subdivision are sold and conveyed of record by Declarant, then the ACC shall thereafter be made up of three (3) members, who shall be: (i) VESTA, LLC, or its successor or assign, (ii) a Lot Owner appointed by VESTA, LLC in its sole discretion, and (iii) a separate Lot Owner who shall be elected by the Association, as defined herein, at each annual meeting of the Association. Any action taken by the ACC shall require an affirmative vote by at least two of the three members. VESTA, LLC shall have the right, in its discretion, to vacate its position on the ACC and it can assign its position to another Lot Owner, in its discretion.

b. *Purpose/Intent of Architectural Control Committee* -- The purpose and intent of the ACC is for it to serve as the exclusive architectural control committee for the Subdivision to protect the generally required characteristics of construction described herein and to prohibit any construction or improvement on a Lot in violation of such requirements and the theme intended for the subdivision. In its capacity as an architectural control committee, the ACC's approval shall be required to commence construction. The ACC shall have the sole and exclusive control over such construction requirements and all decisions made by the ACC, in its sole discretion, shall be binding on the Subdivision and all Lots thereof.

c. *Submission of Proposed Plans to ACC -- Review and Approval Process.* Whenever an Owner of a Lot wishes to construct a primary residential dwelling, an accessory building or any permanent improvement/construction, or landscaping, the Owner shall submit to the ACC three (3) full sets of building and site plans for such proposed construction. Such plans shall show all exterior elevations of the proposed building(s) and shall designate all the materials and colors to be used for all exterior materials so that the ACC has sufficient information to evaluate if the proposal meets the requirements set forth herein. Additionally, the Owner shall submit color samples of all such materials, and a landscaping plan for the Lot, for the ACC's review and approval process.

Upon receipt of such plans, the ACC shall call a meeting for the purpose of the ACC's review of the plans and samples submitted as soon as possible, but in no event shall such meeting occur later than twenty (20) calendar days from the date of the ACC's receipt of the plans and samples. At said meeting, the ACC shall have the opportunity to comment on the plans and discuss the same. At the conclusion of the discussion, the ACC shall vote on its approval of the proposed plans and samples. The approval of such plans shall require at least a two-thirds approval by the member(s) of the ACC, and such approval or denial shall be in the sole discretion of the ACC. The ACC shall issue a written statement outlining the result of said vote and whether the ACC approved or denied the proposed plans and samples. If denied, the ACC shall provide a written summary of the reasons for such denial and shall provide the same to the Lot owner who proposed the plans within ten (10) days from the date of said meeting. No construction shall commence until the plans therefore have been approved by the ACC.

d. *Intent of Architectural Control and Possibility For Variance.* It is the intent of these Covenants to ensure that the homes and accessory buildings constructed within CROSS CREEK ESTATES Subdivision are higher-than-average homes in terms of quality, appearance and styling. The Lot owners wish to promote a high quality of construction and appearance for each building to be constructed in the Subdivision to protect each other's desired lifestyles and property values.

As further provided hereafter in the Covenants, the ACC, in exercising its architectural control of the Subdivision, may grant a variance to an Owner upon the Owner's written request to allow the primary residential dwelling or accessory building to be constructed, sided or roofed in some material other than those expressly permitted above. The Declarant acknowledges that there may be a type of construction, siding, roofing or other materials proposed that may be otherwise prohibited herein but because of the overall high quality of construction, appearance and style of the proposed residence or building the ACC may allow such and grant a variance.

6. **GENERAL IMPROVEMENT SET BACK.** No improvement (excluding perimeter fences, landscaping and similar improvements which would not defeat the purpose of the set back) shall be constructed closer to any property line than a distance of twenty-five (25) feet without an express variance granted by the ACC on a case-by-case basis. Eaves, steps and open porches of buildings shall not be considered as part of such improvement. Consideration should be given to place structures so as not to unnecessarily disrupt the view of neighboring Lot owners and to provide continuity with the natural surroundings.

7. **EXTERIOR LIGHTING.** Only standard residential lighting shall be used to illuminate a Lot. All outside lighting shall be arranged, directed and/or shielded so as to prevent any such light shining onto an adjacent road and/or other Lots.

8. **UTILITIES/EASEMENTS AND LONDON LANE.** All utilities and service lines installed on Lots shall be underground. No propane tanks shall be used as a source of fuel for the homes' utility system. Easements are granted to and for the benefit of each Lot along those routes shown on the above-described Plat and designated thereon -- said utility easements being twenty feet (20') in width along the exterior boundary and the road frontage of each Lot and being fifteen feet (15') in width on each Lot where the boundary lines where two adjacent Lots meet -- all as shown on said Plat. The purpose of these easements is to provide each Lot with the benefit of allowing utilities, drainage and irrigation along such routes as may be necessary for each Lot in the Subdivision.

*Landon Lane -- Possible Future Dedication* -- Each Lot lying along "Landon Lane", as shown on said Plat (i.e., Lots 8, 16, 17 and 19), is hereby notified that the western boundary of said Lots lies at or about the centerline of Landon Lane and that a thirty foot easement (as shown on said Plat) has been granted to Sheridan County for the public access thereon. Sheridan County officials may require, at some future date, that Landon Lane be dedicated to public use rather than an easement. As a condition of accepting the subdivision of Cross Creek Estates, Sheridan County officials require recorded notice that each said Lot Owner may be required to dedicate that thirty foot portion of Landon Lane currently shown on said Plat as an easement.

*Conoco Pipeline* -- It is expressly acknowledged herein that Lots 12, 13, 14, 15, 20 and 21 have an existing pipeline crossing such lots, as shown on the Plat, and that there is an Encroachment Agreement related to such pipeline which shall be recorded in the Sheridan County Clerk's office, Sheridan County, Wyoming, of even date herewith, the terms and conditions of which are incorporated herein.

9. **SEPTIC SYSTEMS/WASTE DISPOSAL.** *Each Owner has notice, by virtue of the note included on the Plat and/or by these Covenants, that each Lot requires an engineered septic system and that such a septic system may be required to be a mounded system to accommodate proper drainage.* Each Owner shall have the responsibility to execute a percolation test, at his expense, to determine what type of septic system is required to be engineered for his Lot subject to the applicable requirements of the Sheridan County Engineer and the Department of Environmental Quality.

The owner of each Lot shall adhere to local regulations for disposing of trash and garbage. No rubbish, debris, ashes or trash of any kind shall be burned on any Lot, nor shall it be placed or permitted to accumulate upon said Lot.

10. **VEHICLES, MACHINERY AND EQUIPMENT.** Vehicles which are not in running condition or are in a state of disrepair, and all trailers, campers, boats, recreational vehicles, motorcycles and other like vehicles, machinery and equipment shall not be placed or stored anywhere on a Lot unless enclosed in a garage or accessory building and out of the view of other Lot owners. Vehicles which are properly licensed and are used on a daily basis do not need to be stored in such a manner.

Each Owner shall provide off-street parking for at least two vehicles on each Lot and such parking area shall be surfaced with either asphalt or concrete. No trailer, RV, boat, camper or any other recreational type vehicle shall be situated or parked on any Lot within the Subdivision for more than four consecutive days, nor more than a total of two weeks within any calendar year, unless such vehicle is enclosed in the garage or accessory building.

Motorcycles, atv's, snow machines and similar vehicles may be used only to enter and exit from the public roads to a Lot, and no such vehicle shall be operated on a Lot in any unsafe, noisy or offensive manner.

11. LIVESTOCK AND PETS. No livestock of any nature shall be kept, raised, or maintained on a Lot ("Livestock") shall include but not be limited to: horses, donkeys, cattle, sheep, pigs, goats, llamas, peacocks, turkeys, chickens and any other such animals not customarily kept as household pets in the area), unless a specific variance is granted by the ACC in its sole discretion. Commercial animal husbandry shall not be practiced in any form, and all pets shall be maintained for personal and family use only. No lot owner shall keep more than three dogs nor more than three cats on a Lot, and all such dogs/cats shall be kept restrained on an owner's Lot in a reasonable manner and shall at all times be kept from creating a nuisance or disturbance (particularly a noise disturbance) to other Lot owners within the Subdivision.

12. FIREARMS. No gun or any other high-powered firearm shall be discharged within the Subdivision.

13. HAZARDOUS, NOXIOUS, OR OFFENSIVE ACTIVITIES. No hazardous, illegal, noxious, or unreasonably loud or offensive activities shall be permitted within the Subdivision, nor shall anything be done or placed within the Subdivision which is or may become a nuisance. Each Owner shall maintain his Lot at all times in a safe, sound and sanitary condition and shall repair or correct any condition and refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their Lots.

14. IRRIGATION OF YARDS/LANDSCAPING.

a. Irrigation Works For Subdivision and Lots. The Association, as defined in paragraph 16 below, shall have the authority and responsibility to ensure that the appropriated direct flow irrigation water that is available to the Subdivision, and to each Lot thereof, is properly delivered to the main irrigation pipeline within the Subdivision when available.

Declarant will initially construct the main irrigation pipeline in the Subdivision and will provide a connection point for each Lot to tap into said main pipeline. After the initial construction, the Association shall provide the operation, maintenance and repair of said main pipeline. From that main pipeline connection for each Lot, each Owner may tap and connect to that main pipeline for irrigation of each Lot. All irrigation pipe and appurtenances thereto on each Lot shall be underground.

After the Association ensures that such irrigation water is delivered to the main pipeline within the Subdivision, each Lot owner shall be responsible for the maintenance, operation and cost of the irrigation works on each Lot and each Lot shall be allowed to divert its share of such irrigation water. No Owner may improperly impair other Lot's ability to obtain its share of water or otherwise improperly interfere with other downstream users of such water. The irrigation system of the Subdivision provides for approximately equal shares of available irrigation water to each Lot, as is set forth in THAT WATER RIGHTS DISTRIBUTION PLAN FOR CROSS CREEK ESTATES SUBDIVISION prepared by MC2 Engineering, P.C., which shall be filed with the Wyoming Engineer's Office. Declarant shall not be liable for any claim by any Owner for failure to supply or use such irrigation water.

Said available irrigation water is intended to provide water to irrigate the yards and landscaping of each Lot, as the appropriated irrigation water appurtenant to the Subdivision is available from time to time and from season to season. The Sheridan Area Water System ("SAWS") which provides drinking water for domestic purposes shall not be used for irrigation of the Lot or any landscaping thereon. Provided further, nothing herein shall prohibit the use of a groundwater well on any Lot for irrigation purposes, if otherwise properly permitted.

b. Landscaping. Landscaping of each Lot is required and shall be completed no later than twelve (12) months from the date the residential dwelling on the Lot is occupied. This landscaping requirement includes the planting of grasses, shrubs, bushes, flowers and trees and other customary landscaping features. Each Owner shall submit its landscaping plan for review and approval by the ACC at the time his building plans are submitted, and such landscaping plan shall be subject to the ACC's approval process noted above. All such landscaping shall be reasonably maintained and manicured and each Lot shall be kept reasonably clear and free of

noxious weeds.

15. **DESTRUCTION OF IMPROVEMENTS.** In the event any structure is destroyed either wholly or partially by fire or other casualty, that structure shall be promptly rebuilt, remodeled or entirely removed from the Lot to conform with these covenants.

16. **CROSS CREEK ESTATES SUBDIVISION HOME OWNERS' ASSOCIATION.**

a. **Creation.** The CROSS CREEK ESTATES Home Owners' Association (herein referred to as the "Association") is hereby created as an unincorporated, nonprofit Association under the Wyoming Unincorporated Nonprofit Association Act, Wyoming Statutes, to exercise the powers granted, and to perform the functions imposed, by these Covenants with regard to the Lots.

b. **Purposes and Powers.** The general purposes of the Association are to:

- (i) enforce these Covenants, as set forth herein and as may be amended,
  - (ii) to govern, administer and pay for the private maintenance and repair of all access roads within the Subdivision as described on the Plat (ie., Spring View Drive, Cross Creek Court, Clear Creek Drive),
  - (iii) to ensure the proper delivery, operation and maintenance of the available appropriated irrigation water to and through the main irrigation pipeline within the Subdivision;
  - (iv) to maintain the entryway(s) of the Subdivision;
  - (v) to generally promote the health, safety, and welfare of the residents of the Lots.
- The Association shall also have the power to provide such additional services for the Lots and the Subdivision as the Owners may from time to time approve.

(vi) to file any tax returns required by the I.R.S. for the Association's collection and use of dues.

For these purposes, the Association is hereby empowered to:

(1) exercise all of the authority, powers, and privileges delegated to or vested in the Association by these Covenants, by Wyoming Statutes, or as may be reasonably implied as being necessary and proper hereunder, and to perform all of the duties and obligations established by these Covenants;

(2) elect officers to carry out the administrative duties authorized by the Association's members from time to time. Officers shall include a President, Vice President and Secretary/Treasurer unless otherwise provided by the Association;

(3) fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to these Covenants, and to pay all expenses in connection therewith and all expenses incident to the conduct of the business of the Association, specifically including but not limited the costs associated with repairing, maintaining and operating the dedicated roads within the Subdivision, as shown on the Plat, and maintenance and repair of said main irrigation pipeline and the entryway(s) of the Subdivision; and

(4) employ such firms or persons to perform any or all of the duties and obligations of the Association.

c. **Membership.** Every person who is an Owner of a Lot shall be a member of the Association, and such membership shall be appurtenant to and may not be separated from the ownership of the Lot. An Owner shall become a member upon conveyance of record to him of his Lot and shall cease being a member upon his conveyance of record of such Lot. No certificate or document, save and except a recorded conveyance to a Lot, shall be required to evidence such membership.

d. **Voting Rights.** Each Owner shall be entitled to one vote for each Lot owned, save and except that the voting rights of any Owner who is more than 30 days past due on the payment of any assessment to the Association shall be automatically suspended until such assessment, together with interest, costs, and reasonable attorney's fees, is paid in full. The voting rights of any Owner against whom an enforcement issue is being voted upon by the Association shall be suspended for the vote on that enforcement issue only. When more than one person owns an interest in any Lot, the vote for such Lot shall be exercised as they determine, but



in no event shall more than one vote be cast on behalf of each Lot.

e. **Action.** An action of the Association, or any approval required of the owners under these Covenants, shall require the affirmative vote of *at least* seventy percent (70%) of all Lots, excluding the vote of any Owner whose voting rights are suspended under Subparagraph d., cast in person or by proxy, at a duly constituted meeting of the Association, or, without a meeting by written approval of such action by said Owners.

f. **Meetings.** The Association shall have an annual meeting. The first annual meeting shall be held in the month of September of 2005, as shall be called to order by Declarant. At such initial annual meeting, the members of the Association shall determine the preferred time, date and location for the annual meetings thereafter. Other special meetings of the Association may be called at any time by the written request of the Owners of any five (5) Lots. Written notice of any and all meetings of the Association shall be given by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each Owner, addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and the purpose of the meeting. Each Owner may vote in person or by proxy at all meetings of the Association. All proxies shall be in writing. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of his Lot.

g. **Books and Records.** Upon prior written request, the books, records, and papers of the Association shall be subject to inspection at a reasonable time and place by any Owner and by a mortgagee holding a duly recorded mortgage against a Lot.

h. **Principal Office.** The Association shall designate a principal office from time to time.

i. **Dissolution.** The Association may be dissolved upon the written approval of all of the Owners of all the Lots. Upon dissolution of the Association, the assets of the Association shall be distributed to the Owners of the Lots within CROSS CREEK ESTATES SUBDIVISION in equal shares, or, dedicated to an appropriate public agency or nonprofit organization to be used for purposes broadly similar to those for which this Association was created.

j. **Limitations.** No part of the net earnings of the Association shall inure to the benefit of, or be distributed to, the Owners, except that the Association shall be authorized to pay reasonable compensation for services rendered.

#### 17. **ASSESSMENTS.**

a. **Creation of Lien & Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all assessments or charges duly established and levied as hereinafter provided. All such assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

b. **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to pay the obligations imposed upon the Association by these Covenants and to promote the health, safety, and welfare of the residents of the Lots.

c. **Annual Assessments.** The Association shall establish an annual assessment to meet its obligations under these Covenants, including but not limited to the obligations to maintain the above-described roads, main irrigation pipeline and entryway(s) of the Subdivision, and to otherwise satisfy the operating expenses of the Association. The Association shall have the power to include within the annual assessment any amount necessary to meet the costs of any other service duly approved by the Association.

d. **Special Assessments.** In addition to the regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only as approved by the Association.

c. Approval of Assessments. All assessments under this Paragraph shall be subject to the approval of the Association, as provided herein. It is Declarant's intention that the initial annual assessment for the year 2005 shall be set in accord with c. above at the Association's first annual meeting in September of 2005, and it is expected as of the date hereof that such annual assessment will be approximately \$500.00 per year initially.

f. Uniform Rate of Assessment. Both annual and special assessments must be fixed as a uniform rate for all Lots.

g. Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots on such date as shall be established by the Association under Subparagraph c. The annual assessment period shall be from January 1<sup>st</sup> of each year through December 31<sup>st</sup>, unless otherwise agreed by the Association. The Association shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

h. Effect of Nonpayment of Assessments. Any assessment not paid within 30 days after the due date shall thereafter bear interest from the due date at the rate of 12 percent per annum. Upon the failure of a Lot Owner to pay the assessment when due, the Association will provide written notice to the violating Lot Owner by delivering the notice by certified mail -- such delivery shall be deemed effective on the date notice is mailed by the Association. The violating Lot Owner shall have thirty (30) days from the date the notice is deposited in the mail to pay, in full, the unpaid assessment, interest thereon and costs. If payment is not received by the Association within said 30 day period, the Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot which is created herein by such nonpayment. The lien created herein shall be foreclosed in the manner provided for the foreclosure of real estate mortgages and liens thereon in the State of Wyoming and may be, at the Association's discretion, accomplished by advertisement and sale as provided in the Wyoming Statutes. In the event of such collection and/or foreclosure, the nonpaying Lot Owner shall be liable for all attorney's fees and costs incurred by the enforcing party in such collection. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of his Lot.

i. Subordination of Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage against the Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot and/or Owner from liability for any assessments thereafter becoming due or from the lien thereof.

#### 18. VARIANCE.

a. Architectural Control Variance Issues -- The ACC shall have the exclusive power and authority to grant a variance, upon an affirmative vote of *at least* two of its three members, to the architectural control requirements set forth herein, including but not limited to the construction, design, elevation, landscaping or other general building requirements for each Lot. It is expressly agreed, by acceptance of title to each Lot encumbered by these Covenants, that the ACC shall have the exclusive right to grant such a variance in its sole and absolute discretion as a committee.

b. Variances For Other Provisions of Covenants -- Provided further, the Association shall have the power and authority, upon an affirmative vote of *at least* seventy percent (70%) of Lot Owners, to grant a variance from the other, non-architectural control requirements set forth in these Covenants for good cause shown in order to prevent undue hardship on an Owner subject

to the Covenants. The variance, if granted, shall not violate the overall theme and appearance of the property subject to these Covenants and shall be in writing.

19. **ENFORCEABILITY.** These Covenants, and each and every provision hereof, may be enforced, including but not limited to the right to require specific performance, by the record Owner of any Lot in the Subdivision or by the ACC or by the Association; however, these Covenants shall not run to the benefit of a third party not an Owner within the Subdivision (or any future additions thereto, if any), except as otherwise specifically provided herein. The ACC and/or Association shall be entitled to recovery of its attorney's fees and costs incurred in a successful enforcement of these Covenants, including but not limited to enforcing those lien rights set forth in paragraphs 17 g. and h. above.

20. **SEVERABILITY.** Invalidity of any one of these Covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

21. **NON-WAIVER.** Any failure to promptly enforce a violation of these Covenants shall not be deemed a waiver of the right to so enforce these Covenants.

22. **COVENANTS RUN WITH THE LAND; AMENDMENT.** This Declaration of Covenants shall run with the land and shall be binding upon the Subdivision and each Lot for a period of twenty years from the date hereof, and shall be automatically extended for successive periods of ten (10) years unless an instrument signed by at least eighty percent (80%) of Lots affected or record by these Covenants repeals and revokes this Declaration in its entirety.

Except as expressly otherwise provided herein, these Covenants may be amended only upon an affirmative vote of at least seventy percent (70%) of Lots affected of record by these Covenants and with an instrument signed by the record owners of at least 70% of such Lots, which shall be filed in the Office of the County Clerk of Sheridan County, Wyoming.

Executed by the Declarant this 31<sup>st</sup> day of October, 2005.

**DECLARANT:**

VESTA LLC, A WYOMING LIMITED LIABILITY COMPANY

By June E. Warren  
June E. Warren

June E. Warren  
June E. Warren, individually

Larry G. Warren  
Larry G. Warren

STATE OF WYOMING       )  
  ) ss.  
COUNTY OF SHERIDAN    )

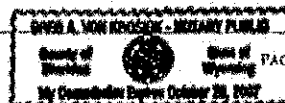
On this 31<sup>st</sup> day of July, 2005, the foregoing Declaration was acknowledged before me by June E. Warren, on behalf of Vesta, LLC, and June E. Warren and Larry G. Warren, individually, all who appeared before me and was personally known to me.

GIVEN under my hand and notary seal the day and year first above written.

Greg Van Kleeft  
Notary Public

My Commission expires: 10/29/07

DECLARATION OF COVENANTS  
CROSS CREEK ESTATES SUBDIVISION, OCTOBER 2005



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